

**Berryessa Creek Project
Santa Clara County, California**

**Appendix A
Environmental**

Part II: Cultural Resources



JUNE 2012



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA, 95814-2922

Environmental Resources Branch

MAR 22 2013

Ms. Carol Roland-Nawi, Ph.D.
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, California 95816

Dear Dr. Roland-Nawi:

We are writing pursuant to 36 CFR 800.6(b)(iv) with a request for your participation as a signatory to a memorandum of agreement (MOA) that we are developing for the Berryessa Creek Flood Control Project (BCFCP) in Santa Clara County, California (Enclosure 1). The U.S. Army Corps of Engineers, Sacramento District (Corps) is in the process of finalizing a General Reevaluation Report (GRR) and Environmental Impact Statement (EIS) for the BCFCP. The BCFCP is a cooperative effort between the Corps and the Santa Clara Valley Water District (SCVWD). After the GRR and EIS are finalized with a Record of Decision, we will turn the BCFCP over to the Corps' San Francisco District for construction. They have been added to the MOA as a signatory.

Previous consultation for the BCFCP can be found under project number COE030530B. We have most recently consulted verbally with Mr. Brendon Greenaway of your staff. The most recent written consultation between the Corps and your office was an exchange of letters dated August 9, 2011 and January 25, 2012 (Enclosures 2 and 3). We submitted an amended area of potential effects (APE) determination, and requested a reaffirmation of National Register of Historic Places eligibility for site archeology site CA-SCL-593. A map of the APE is in Appendix A of the draft MOA.

The main purpose of the proposed BCFCP is to provide flood risk management to areas of San Jose and Milpitas. More specifically, the BCFCP would provide flood protection to populated areas, reduce sedimentation, and reduce maintenance requirements. The project description, as defined in the GRR and EIS is included as Enclosure 4. The Corps has selected Alternative 2A as the recommended alternative.


The Corps is preparing an MOA because of the presence of burials in archeology site CA-SCL-593. The site was found to be eligible for listing in the National Register of Historic Places in 1994 (Enclosure 5). The burials were found in 1986 and then excavated by local San Jose Archeologist, Dr. Robert Cartier, and San Francisco District Archeologist, Richard Stradford. During a recent survey of the project area in 2010 by Basin Research Associates, Inc., human remains were observed eroding out of the creek bank about two meters below grade. Otherwise the site has not been fully investigated.

On June 10, 2011, four non-Federally recognized Native American groups, the Muwekma Ohlone Indian Tribe, Ohlone Indian Tribe, Inc., Indian Canyon Mutsun Band of Costanoan, and the Amah-Mutsun Tribal Band were notified of the project with a request for comment and information regarding sacred sites or areas of traditional cultural interest. We will contact and invite them all to participate in the MOA as concurring parties, in addition to the SCVWD. The Advisory Council on Historic Preservation will be notified of the MOA and invited to participate as well.

Please review the enclosed draft MOA and provide comments, as necessary. We will also send Mr. Greenaway an electronic copy by email. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Cameron Sessions, Project Manager, at (916) 557-7896, or email at: cameron.l.sessions@usace.army.mil.

Sincerely,



 Alicia E. Kirchner
Chief, Planning Division

Enclosures

**Memorandum of Agreement
Between
The United States Army Corps of Engineers, and
The California State Historic Preservation Office,
Regarding
Resolution of Adverse Effects for the Proposed
Berryessa Creek Flood Control Project**

WHEREAS, the U.S. Army Corps of Engineers, Sacramento and San Francisco Districts (Corps) propose to construct the Berryessa Creek Flood Control Project [hereafter Project] located in and near Berryessa Creek in Milpitas and San Jose, California, as authorized by the Water Resources Development Act of 1990 [33 U.S.C. 2201, Section 101(a)(5)]; and

WHEREAS, the Corps has determined that the project may have an adverse effect upon CA-SCL-593, a property that was determined to be eligible for inclusion in the National Register of Historic Places and has consulted with the Advisory Council on Historic Preservation (ACHP) and the California State Historic Preservation Officer (SHPO) according to Section 800.13 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act as amended (16 U.S.C. 470f), and

WHEREAS, the Corps has determined that the character of the construction associated with the Project as designed precludes the possibility of avoiding adverse effects to CA-SCL-593 as a result of the Undertaking's implementation, and has further determined that it will resolve such effects through the execution and implementation of this MOA; and

WHEREAS, the Santa Clara Valley Water District (SCVWD) has participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, the Indian Canyon Mutsun Band of Costanoan, the Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, and the Ohlone Indian Tribe have been invited to participate in consultation as concurring Parties; and

WHEREAS, pursuant to 36 CFR 800.4(c), the Corps, in consultation with the SHPO has determined that archeology site CA-SCL-593 is eligible for the National Register of Historic Places under criterion d; and

WHEREAS, the Corps has consulted with the SHPO in accordance with 36 CFR 800.6(a-b) to resolve the potential adverse effects of the Project on archeology site CA-SCL-593; and

WHEREAS, the ACHP has been notified of this Undertaking and has (Comments pending) and;

NOW, THEREFORE, the Corps, and SHPO agree that the Project shall proceed according to the following stipulations that will be implemented in order to take into account the

effects of the Project on historic properties, and that these stipulations shall govern the Project and all of its parts until this MOA expires or is terminated.

DEFINITIONS

Signatories are those parties who have the exclusive right to execute, amend or terminate an MOA.

Concurring Parties. Concurring means their concurrence indicates that they are in agreement with the terms of the MOA.

Consultant means the cultural resources contractor.

STIPULATIONS

I. AREA OF POTENTIAL EFFECTS

A. The Corps has determined and documented the Area of Potential Effects (APE) for the Undertaking in consultation with SHPO. Modifications of the APE may be made by mutual agreement of the signatories without amending this Agreement.

B. In consultation with SHPO the Corps has previously established the project APE per 36 CFR 800.16(d). The APE falls within the cities of Milpitas and San Jose in Santa Clara County, California, and is located in unsectioned Milpitas (1980) and Calaveras Reservoir (1980) USGS topographic quadrangles in Township 6 South, Range 1 East (Attachment 1).

C. The SHPO shall be notified by the Corps in a timely manner of any modifications with the construction, right-of-way, and ancillary areas that may alter the APE.

II. TREATMENT OF HISTORIC PROPERTIES

A. When data recovery is proposed, the Corps in consultation with other parties to this agreement shall ensure the development of a Historic Properties Treatment Plan by a professional archaeologist (Consultant) who meets the Secretary of the Interior's Standards (FR 44738-FR44739), and that is consistent with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation and the ACHP "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (ACHP May 18, 1999). Components to be included in data recovery plans are as follows:

- 1 The historic properties or portions of historic properties where treatment will be implemented;
- 2 A research design that will contain the research questions and goals that are applicable to the Project area as a whole and that will be addressed

- through data recovery, along with an explanation of their relevance and importance;
- 3 The field and analysis methods to be used, with an explanation of their relevance to the research questions;
 - 4 The methods to be used in data management and dissemination of data, including a schedule;
 - 5 The proposed disposition of recovered materials and records;
 - 6 Methods and procedures for the recovery, analysis, treatment, and disposition of human remains, associated grave goods, and objects of cultural patrimony that reflect any concerns and/or conditions identified as a result of consultations between the Corps and any affected Native American Group (see Stipulation IV.B);
 - 7 The historic properties to be affected in the specified Project segment and the nature of those effects;

B. The HPMP shall also include procedures, as identified in Stipulation V.E. In the event that significant cultural material or additional human remains are discovered during construction.

C. The Corps shall provide the draft HPMP to all concurring parties for thirty (30) days of review. If SHPO or concurring parties do not respond within thirty (30) days of receipt, the Corps can consider that all parties concur with the HPMP. If any concurring parties respond with comments on the HPMP, the Corps shall consult, not to exceed thirty (30) days, with the entity providing the comments to resolve the matter.

D. The Corps will be responsible for ensuring that the stipulations of the HPMP, including post-field analysis, and final report production are implemented.

E. A draft version of the final report presenting all aspects of the HPMP for CA-SCL-593 will be provided to the Corps, the SHPO and concurring parties for thirty (30) days of review. If the SHPO or any concurring party does not respond within thirty (30) days of receipt, the Corps can consider that they concur with these reports. If the SHPO or any of the concurring parties responds with comments on the draft report, the Corps will consult with the responding party (ies) in a timely manner to resolve the comments.

F. The completed and finalized report will be submitted by the Corps to all MOA parties.

III. REPORTING

A. Within ten (10) days of completion of all work required under Stipulation II, the Consultant shall notify the Corps and SHPO.

B. Within sixty (60) days of the Corps determining that all data recovery required by Stipulation II is complete, the Consultant shall prepare a field summary report that summarizes the data recovery and the preliminary results of such data recovery, and

distribute the field summary report to the Corps, SHPO, and Concurring parties for concurrent review and comment. The Signatories and Concurring parties will have thirty (30) days upon receipt of the field summary report to submit written comments to the Corps. Lack of response within this review period shall not preclude the Corps from authorizing revisions to the draft field summary report, as the Corps deems appropriate. The Corps shall ensure that any written comments received are taken under consideration during the preparation of the final field summary report. Once the field summary report has been approved by the Corps as a final document, the Corps will notify and provide a copy to SHPO, and Concurring parties.

C. Within 12 months of the Corps determining that all data recovery required by Stipulation II is complete, the Consultant shall prepare a draft technical report that document the results of implementing and completing the data recovery, and distributes the technical report to the Corps, SHPO, and Concurring parties for concurrent review and comment. The Signatories and Concurring parties will have thirty (30) days upon receipt of the draft technical report to submit written comments to the Corps. Lack of response within this review period shall not preclude the Corps from authorizing revisions to the draft technical report, as the Corps deems appropriate. The Corps shall ensure that any written comments received are taken under consideration during the preparation of the final technical report. Once the technical report has been approved by the Corps as a final document, the Corps will notify and provide a copy to SHPO, Concurring parties, and North Central California Information Center of the California Historical Resources Information System.

IV. DISCOVERIES AND UNANTICIPATED EFFECTS

SCVWD shall employ a qualified archeologist, as described in Stipulation II. A, who will monitor all project-related ground-disturbing activities.

A. Should any significant cultural material be discovered during project implementation, work will cease immediately within 100 feet of the discovery and the discovery location secured from additional impacts from project construction. The archaeologist, or other SCVWD representative, shall immediately notify the Corps of the discovery. The Corps shall coordinate with SHPO and appropriate Tribe(s) regarding the discovery, pursuant to 36 CFR 800.13. The Corps will contact the SHPO by facsimile machine, telephone, and/or email within 48 hours of the discovery. The SHPO has 48 hours to respond by facsimile machine, telephone, and/or email following initial contact by the Corps. Following concurrence by the SHPO regarding the discovery, the procedures referenced in paragraph C of this Stipulation shall be implemented.

B. Human remains are known to be in the site location, and the Santa Clara County Medical Examiner (SCCME) and the Native American Heritage Commission have been notified. If additional human remains are discovered the SCCME will be immediately notified. Artifacts associated with burials are to be treated in the same manner as the human remains. Once the Corps is notified of the discovery, a report shall be prepared pursuant to Stipulation IV.C of this MOA.

C The HPMP includes procedures for managing the discovery of unanticipated cultural resources. If the Corps or SHPO determines that implementation of the HPMP or the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, the Corps will address the discovery, or unanticipated effect, in accordance with 36 CFR 800.13 and with those provisions of the HPMP that relate to the treatment of discoveries and unanticipated effects. Unanticipated Discoveries shall be reported as described in Paragraph A of this Stipulation.

D. Once treatment of the significant archeological find or the treatment of human remains has been completed in the area secured from project construction, the project may resume in that area.

E. Should any previously unidentified human remains or significant cultural material be discovered during project construction, the archeologist shall prepare a draft report on the discovery and distribute the report concurrently to the Corps, SHPO, and all concurring parties. The report shall fully describe the finding(s) with maps and photographs. Disposition of any artifacts shall be clearly addressed. Artifacts or features of cultural or temporal significance shall be completely described with drawings and/or photographs. The Corps, SHPO, and concurring parties shall have thirty (30) days to review and comment on the draft report. Failure of any party to submit comments will not preclude the Corps from proceeding with finalizing the document. Upon notification from the Corps the archaeologist shall prepare the final report and submit five hard copies and one digital copy of the final report to the Corps. The Corps shall forward a copy of the final report to SHPO, and concurring parties.

V. NATIVE AMERICAN CONSULTATION

Consultation with the concurring Native Americans will continue throughout the duration of this MOA. If Native Americans, other than the concurring parties with demonstrated interest in the project area are identified, the Corps shall invite them to participate in the consultation process.

VI. STANDARDS

A. Professional Qualifications: the Corps shall ensure that all Stipulations prescribed by this MOA are carried out by, or under the direct supervision of, a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-39) in the appropriate disciplines.

B. Documentation Standards: written documentation prescribed by Stipulations III(B) and III(C) of this MOA shall conform to the Secretary of the Interior's Guidelines for Archaeology and Historic Preservation (48 FR 44716-44740), as well as to applicable standards and guidelines established by the SHPO.

C. Curation Standards: the Corps shall ensure all materials and records resulting from the historic preservation work prescribed by this MOA are curated in accordance with 36 CFR 79. The Corps will establish a curation agreement with a federally recognized curation facility to curate the collection.

D. Confidentiality: the Parties acknowledge that historic properties covered by this MOA are subject to the provisions of Section 304 of the National Historic Preservation Act (NHPA) relating to the disclosure of archaeological site information and having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with Section 304 of the NHPA.

VII. RESOLVING OBJECTIONS

Should any Signatory to this Agreement object to any action carried out or proposed by the Corps with respect to the implementation of this MOA, the Corps shall consult with that Signatory party to resolve the objection. If the Corps after initiating such consultation determines that the objection cannot be resolved the Corps shall forward documentation relevant to the objection to the ACHP, including the Corps's proposed response to the objection. Within forty five (45) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

A. Advise the Corps that the ACHP concurs in the Corps proposed final decision, whereupon the Corps shall respond accordingly;

B. Provide the Corps with recommendations, which the Corps shall take into account in reaching a final decision regarding its response to the objection; or

C. Notify the Corps that the objection will be referred to the Council membership for formal comment and proceed to refer the objection and comment within forty five (45) days. The resulting comment shall be taken into account by the Corps in accordance with 36 CFR 800.7(c)(4).

D. Should the ACHP not exercise one of the above options within forty five (45) days after receipt of all pertinent documentation, the Corps may assume the ACHP's concurrence in its proposed response to its objections.

E. The Corps shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; Corps responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

VIII. AMENDMENTS

Any Signatory to this Agreement may propose to the other signatories that it be amended, whereupon the signatories will consult in accordance with 36 CFR 800.6(c)(7) to consider such an amendment.

IX. TERMINATION OF THE MOA

Any signatory to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this Agreement by the SHPO, the Corps shall comply with the provisions of 36 CFR 800.6(c)(8).

X. DURATION OF MOA

This Agreement will terminate if its terms are not carried out within five years from the date of the last signature on this Agreement. Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation IX.

XI. EFFECTIVE DATE

This MOA shall take effect on the date that it has been fully executed by the Corps and the SHPO.

XII. TERMINATION

This MOA shall be considered to be in effect until either it is terminated or all of its stipulations have been met.

IN WITNESS WHEREOF, execution of this MOA by the Corps and SHPO, transmittal by the Corps to the Council in accordance with 36 CFR 800.6(b)(1)(iv), and subsequent implementation of its terms, evidences the Corps has taken into account the effects of the Undertaking on historic properties and that the Corps has satisfied its responsibilities under 106 of the National Historic Preservation Act and applicable implementing regulations.

UNITED STATES ARMY CORPS OF ENGINEERS

Sacramento District

By: _____ Date: _____
Michael J. Farrell, Colonel, U.S. Army Corps of Engineers, District Commander

San Francisco District

By: _____ Date: _____
John K. Baker, P.E. Lieutenant Colonel, U.S. Army Corps of Engineers, District Commander

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Carol Roland-Nawi, Ph.D., State Historic Preservation Officer

Concurring Parties:

SANTA CLARA VALLEY WATER DISTRICT

By: _____ Date: _____

TRINA MARINE RUANO FAMILY

By: _____ Date: _____

MUWEKMA OHLONE INDIAN TRIBE OF THE SAN FRANCISCO BAY AREA

By: _____ Date: _____

OHLONE INDIAN TRIBE

By: _____ Date: _____

AMAH MUTSUN TRIBAL BAND

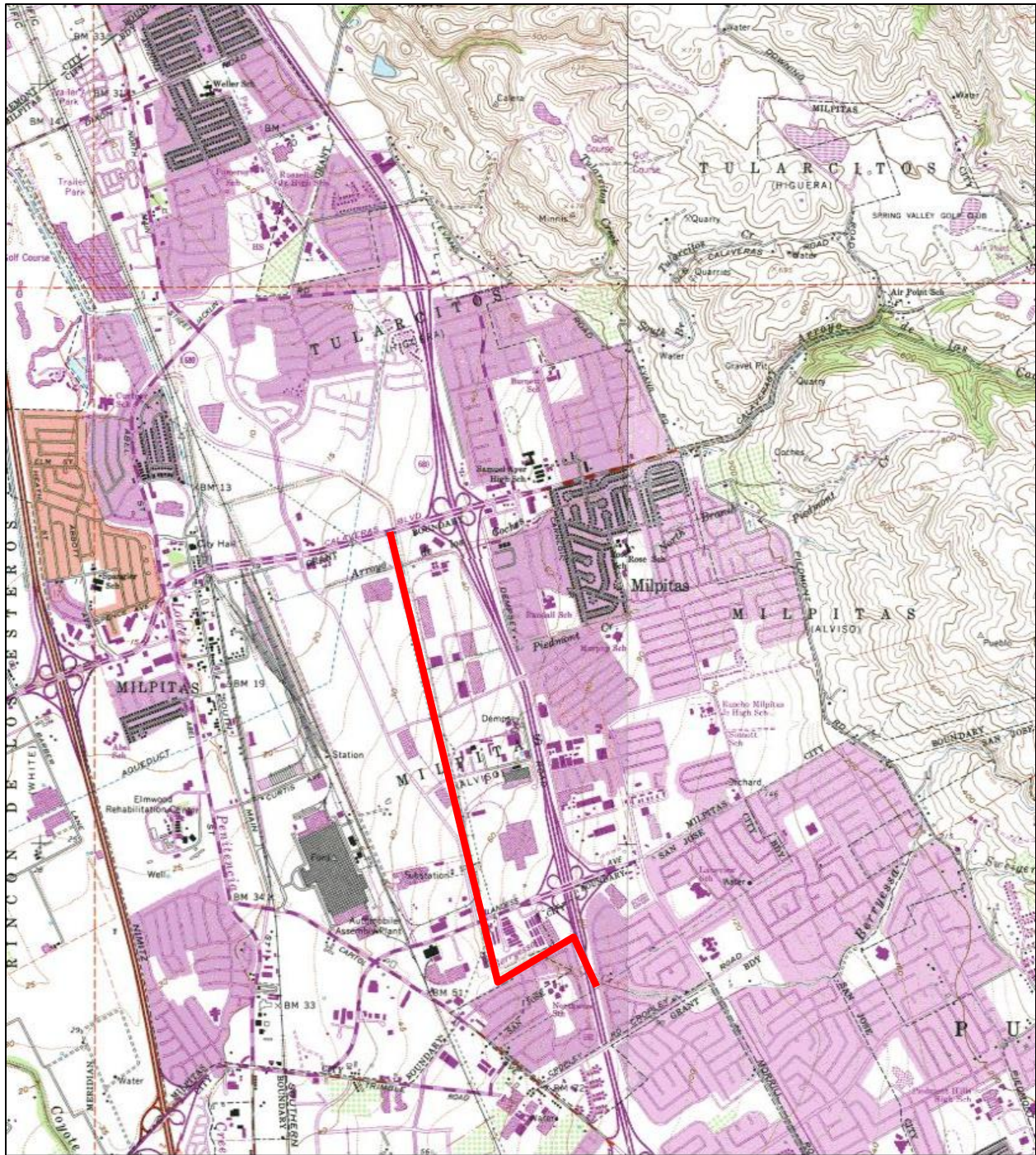
By: _____ Date: _____

INDIAN CANYON MUTSUN BAND OF COSTONOAN

By: _____ Date: _____

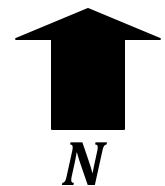
ATTACHMENT 1
Area of Potential Effects

DRAFT



Area of Potential Effects
 Berryessa Creek Flood Control Project
 Milpitas and Calaveras Reservoir, CA 1961, revised 1980
 U.S.G.S. 7.5 Minute Quadrangles
 Unsectioned, Township 6 South, Range 1 East

0 1/2 1 mi





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA, 95814-2922

Environmental Resources Branch

Mr. Reid Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

MAR 28 2013

Dear Mr. Nelson:

We are writing with a request for your participation in consultation on a memorandum of agreement (MOA) that we are developing for the resolution of adverse effects that are associated with the Berryessa Creek Flood Control Project (BCFCP) in Milpitas and San Jose, Santa Clara County, California (Enclosure 1). The U.S. Army Corps of Engineers, Sacramento District (Corps) is in the process of finalizing a General Reevaluation Report (GRR) and Environmental Impact Statement (EIS) for the BCFCP. The BCFCP is a cooperative effort between the Corps and the Santa Clara Valley Water District (SCVWD). After the GRR and EIS are finalized with a Record of Decision, we will turn the BCFCP over to the Corps' San Francisco District for construction. They have been added to the MOA as a signatory.

The main purpose of the proposed BCFCP is to provide flood risk management to areas of San Jose and Milpitas. More specifically, the BCFCP would provide flood protection to populated areas, reduce sedimentation, and reduce maintenance requirements. The project description, as defined in the GRR and EIS, is included as Enclosure 2. The Corps has selected Alternative 2A as the recommended alternative.

The Corps is preparing an MOA because archeology site CA-SCL-593 has burials in it and the site was found to eligible for listing in the National Register of Historic Places. The human remains were first found in 1986 and subsequently excavated by local San Jose Archeologist, Dr. Robert Cartier, and San Francisco District Archeologist, Richard Stradford. During a recent resurvey of the project in 2010 by Basin Research Associates, Inc., human remains were observed eroding out of the creek bank about two meters below grade. Otherwise the site has not been fully investigated.

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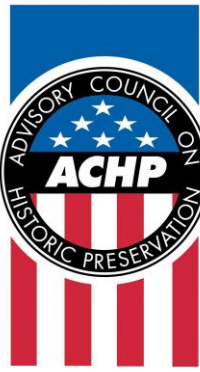
Please let us know if the ACHP wishes to participate in consultation and the development of the MOA. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Cameron Sessions, Project Manager, at (916) 557-7896, or email at: cameron.l.sessions@usace.army.mil.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Kirchner", written in a cursive style.

Alicia E. Kirchner
Chief, Planning Division

Enclosures



Preserving America's Heritage

April 18, 2013

Alicia E. Kirchner
Chief, Planning Division
Corps of Engineers
1325 J Street
Sacramento, CA 95814-2922

Ref: *Proposed Berryessa Creek Flood Control Project
Milpitas and San Jose, Santa Clara County, California*

Dear Ms. Kirchner:

On April 2, 2013, the Advisory Council on Historic Preservation (ACHP) received your notification of adverse effect for the referenced undertaking that was submitted in accordance with Section 800.6(a)(1) of our regulations, "Protection of Historic Properties" (36 CFR Part 800). The background documentation included with your submission does not meet the specifications in Section 800.11(e) of the ACHP's regulations. We, therefore, are unable to determine whether Appendix A of the regulations, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, applies to this undertaking. Accordingly, we request that you submit the following additional information so that we can determine whether our participation in the consultation to resolve adverse effects is warranted.

- Copies or summaries of any views or comments provided by consulting parties, the public, and the California State Historic Preservation Officer;
- Copies or summaries of any views or comments provided by any affected Indian tribe.

Upon receipt of the additional information, we will notify you within 15 days of our decision.

If you have any questions, please contact Mr. Anthony G. Lopez at 202-606-8525 or via e-mail at alopez@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA, 95814-2922

Environmental Resources Branch

OCT 02 2013

Ms. Carol Roland-Nawi, Ph.D.
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, California 95816

Dear Dr. Roland-Nawi:

We are writing with regard to ongoing Section 106 consultation pertaining to the Berryessa Creek Flood Control project (BCP). More specifically, the U.S. Army Corps of Engineers, Sacramento District (Corps) is responding to communications between Mr. Brendon Greenaway and Ms. Susan Stratton of your staff, and Corps Archeologist, Mr. Richard Perry. As recommended in an email dated September 3, 2013 from Mr. Greenway (enclosure 1), the Corps evaluated the Union Pacific Railroad Trestle (Trestle) and subsequently revised the draft MOA by removing the stipulation that requires the Trestle evaluation. Consequently, pursuant to 36 CFR 800.4(d)(1), we are requesting your concurrence with our determination of non-National Register eligibility of the Trestle over Berryessa Creek, and that you continue your review of our revised draft memorandum of agreement (MOA). Your file number for the BCP is COE030530B.

On September 16, 2013 Corps historian Mr. Jerry Fuentes conducted extensive archival research on the Trestle. The following day Mr. Fuentes and Mr. Perry visited the Trestle and recorded it on DPR-523 forms. While we are waiting for the Northwest Information Center to provide a site number we assigned it the temporary resource name of BC-T1.

The Trestle spans a 12 inch pipe that crosses Berryessa Creek at an angle and is supported by connections to the middle set of pilings of the Trestle. Scour protection for the Trestle abutments appear to be slabs of concrete the size of 100 lbs bags of cement. The Trestle abutments are supported with wood planks with intermittent concrete applications into gaps between the plants. The east abutment also has two pilings supporting the plank wall with a wire rope tie-back into a buried anchor point. The Trestle is 67-feet-long by 10-feet-wide.

The field evaluation documented herein indicates that the Trestle lacks integrity as it has recently been substantially modified with additions of safety railings and pedestrian walkways, and clearly has been modified and repaired numerous times since its original construction in 1922. New cross-ties and support beams have also been added to the structure. Judging by the newness of some of the ties that have creosote seeping out

of them and the new appearing stainless steel cables the trestle appears to have recently undergone a major renovation. The Trestle is a standard pile design dating to the mid-1800s.

The Western Pacific Railroad extended their line to San Jose in 1922, establishing a station in Milpitas north of the Trestle in question. The Western Pacific Railroad requested permission to abandon that the Milpitas station for travel in 1932 but continued to use the line for freight, particularly for agricultural products. In 1953, Ford Motor Company constructed an assembly plant between the Southern Pacific line and the Western Pacific line in Milpitas. Complete information regarding the Trestle in the enclosed Memorandum for Record (Enclosure 2).

Based on the commonality of the trestle design and its widespread use, the use of common creosote soaked timber, and the regular maintenance and upgrading of the structure, and with the addition of the modern aluminum pedestrian walkway and the stainless steel cable handrail, the Corps has determined that pursuant to 36 CFR 800.4(d) (1), the Trestle is not eligible for inclusion in the National Register of Historic Places.

The other issue referenced in the opening paragraph is that we are resubmitting the MOA for this project (enclosure 3). In view of the fact that we are now evaluating the Trestle, we have removed the stipulation from the MOA that requires its evaluation. With the exception of the issue regarding the Trestle, we have addressed earlier comments on the MOA that were provided by Mr. Greenaway. The earlier version of the MOA has been sent to potentially interested Native Americans on two occasions. The most recent correspondence to Native Americans sent on September 13, 2013 was the third time we wrote them regarding this project and the MOA since 2011.

Please review our documentation of the Trestle and provide your concurrence with our determination of non-eligibility, and also please review the enclosed revised draft MOA and provide comments as necessary. We will also send Mr. Greenaway an electronic copy of the MOA by email. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil.

If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7550, or email at charles.l.austins@usace.army.mil.

Sincerely,


for E. Scott Clark
Acting Chief, Planning Division

Enclosures

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

1725 23rd Street, Suite 100
SACRAMENTO, CA 95816-7100
(916) 445-7000 Fax: (916) 445-7053
calshpo@parks.ca.gov
www.ohp.parks.ca.gov



January 25, 2012

Reply to: COE030530B

Alicia E. Kirchner
Army Corps of Engineers
1325 J Street
Sacramento, CA 95814-2922

RE: Berryessa Creek Project, Santa Clara County, California

Dear Ms. Kirchner:

Thank you for requesting my comments on the above cited undertaking. You are preparing the General Reevaluation Report and draft Environmental Impact Statement and have requested my comments in accordance with Section 106 of the National Historic Preservation Act as amended. My staff has reviewed the documentation you provided and I would like to offer the following comments.

You have requested to continue consultation for this undertaking and have asked my concurrence that your cultural resources identification efforts for the revised area of potential effects are sufficient. Finally, you have requested re-confirmation that CA-SCL-593 is eligible for the National Register of Historic Places. As documentation for your findings, you provided a report entitled, *Historic Property Survey Report and Finding of Effect Berryessa Creek Project Cities of San Jose and Milpitas, Santa Clara County, California*, dated December 2010. Based on the results of this report, I concur with your determination that the efforts to identify historic properties are sufficient for the purposes it was intended. In addition, as the State Historic Preservation Officer, I reaffirm the conclusion of this Office that CA-SCL-593 meets the criteria for eligibility for the National Register of Historic Places. I look forward to continuing consultation with the Corps as this project goes forward.

If my staff can be of any further assistance, please contact Dwight Dutschke at 916-445-7010.

Sincerely,

A handwritten signature in cursive script that reads "Susan H. Stratton for".

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

**Berryessa Creek Project
Santa Clara County**

Appendix A: Environmental

Part II

SHPO Correspondence

**U.S. Army Corps of Engineers
Sacramento District**

JUNE 2006

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov
www.ohp.parks.ca.gov



January 20, 2004

REPLY TO: COE030530B

Tanis J. Toland
Chief, Environmental Analysis Section
U.S. Army Corps of Engineers, Sacramento
1325 J Street
Sacramento, CA 95814-2922

Re: Berryessa Creek Flood Control Project near San Jose and Milpitas, Santa Clara County.

Dear Ms. Toland:

Thank you for your July 23, 2003 letter in response to my June 19, 2003 letter that continues our consultation on this undertaking. I had requested additional information about the Corps' Area of Potential Effects (APE) for this undertaking. Specifically, the APE in your May 28, 2003 submittal did not correspond well with the description of the APE in the body of the letter, nor with the depictions of the project in various enclosures to that submittal.

In response, you have provided a map with this submittal that includes potential detention basin sites in the revised APE. Your letter, however, states that the APE may undergo adjustment as alternatives are identified and refined. If all these proposed alternatives are within the boundaries of the APE delimited on enclosure 2 of this submittal, then I do not object to the Corps' APE for this undertaking. If the APE may be revised beyond these boundaries, I suggest you consider a stipulation that deals with adjustments in the APE in the programmatic agreement you have proposed.

You have proposed using a phased identification and evaluation process for this undertaking, and have asked me to review a draft Programmatic Agreement (PA) that would implement such a phased approach. I concur that a phased approach is appropriate given the complexity of the undertaking and the urbanized setting. In order to facilitate my review, please provide me an electronic version of the draft PA to hkreu@ohp.parks.ca.gov.

I look forward to concluding this consultation as quickly as possible. If you have any questions about my comments, please contact staff archaeologist Anmarie Medin at (916) 653-8920 or at amedj@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

REPLY TO
ATTENTION OF

Environmental Resources Branch

JUL 23 2003

Dr. Knox Mellon
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, California 94296-0001

Dear Dr. Mellon:

In response to your letter dated June 19, 2003, the U.S. Army Corps of Engineers, Sacramento District, is writing to clarify the area of potential effects (APE) for the proposed Berryessa Creek (BC) flood control project near the cities of San Jose and Milpitas in Santa Clara County. We have been in consultation with Mr. Mike McGuirt regarding this project, and your file number for the project is COE030530B.

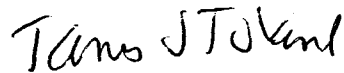
The regional map, which includes parts of the cities of San Jose and Milpitas, is included to show the general locations of the creeks and roadways only (enclosure 1). The APE for the BC project is where Berryessa Creek flows west out of the Diablo Range and the creek meanders through residential neighborhoods in San Jose and Milpitas. The APE is approximately 4.5 miles long, beginning approximately 600 feet upstream of Old Piedmont Road and extending downstream to Calaveras Boulevard and Highway 237 (enclosure 2). The APE is located on the Milpitas and Calaveras Reservoir, California, 7.5-minute U.S.G.S. topographic maps in T. 6S, R. 1E in a non-sectioned area of Milpitas and San Jose. After consultation with team members, we have refined the APE shown in enclosure 2 and have included the potential detention basin sites within the APE on the map.

In accordance with 36 CFR 800.4(2), we are using a phased identification and evaluation process for the BC project. The proposed project is in the preliminary stage, and the APE may undergo adjustment as alternatives are identified and refined. We are requesting that you comment on the APE pursuant to 36 CFR 800.4(a)(1) during this preliminary stage of the proposed project. In addition, we are re-submitting the draft Programmatic Agreement and project background, and requesting your consultation and participation (enclosures 3 and 4).

Comments on the APE may be sent to Ms. Melissa Montag (CESPK-PD-R), U.S. Army Corps of Engineers, Sacramento District, 1325 J Street, Sacramento, California 95814-2922. If you have any further questions about the APE or the descriptions of the APE, please contact

either Ms. Montag, Historian/Social Scientist, at (916) 557-7907 or email: melissa.l.montag@usace.army.mil, or Mr. Richard Perry, Archeologist, at (916) 557-5218 or email: richard.m.perry@usace.army.mil to arrange a meeting to discuss the proposed project in more detail.

Sincerely,

A handwritten signature in black ink that reads "Tanis J. Toland". The signature is written in a cursive, slightly slanted style.

Tanis J. Toland
Chief, Environmental Analysis Section

Enclosures

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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19 June 2003

In Reply Refer To
COE030530B

Tanis J. Toland
Chief, Environmental Analysis Section
Sacramento District
U. S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

RE: ENVIRONMENTAL RESOURCES BRANCH [SECTION 106 CONSULTATION ON THE
BERRYESSA CREEK FLOOD CONTROL PROJECT, CITIES OF MILPITAS AND SAN JOSE,
SANTA CLARA COUNTY]

Dear Ms. Toland,

This letter is a response to your request that I comment on the area of potential effects (APE) for the subject undertaking. My comments here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

The depiction of the APE in Enclosure 4 of the U.S. Army Corps of Engineers' (Corps) letter of 28 May 2003 does not correspond well with the description of the APE in the body of that letter, nor with the depictions of the Project Limits in Enclosure 1 and the Potential Detention Basin Sites in Enclosure 5 of the letter. There is a large area to the north of Calaveras Boulevard and State Route 237 that the APE encompasses in Enclosure 4 that does not appear to correspond to either the Project Limits as depicted in Enclosure 1 of the letter or the Potential Detention Basin Sites in Enclosure 5. The APE in Enclosure 4 also does not appear to encompass the two most southerly of the Potential Detention Basin Sites in Enclosure 5.

Please provide me with additional or amended documentation that addresses the foregoing comments. I look forward to concluding the APE consultation after I have had an opportunity to review the additional information requested.

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA, 95814-2922

Environmental Resources Branch

Dr. Knox Mellon
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, California 94296-0001

MAY 28 2003

Dear Dr. Mellon:

The U.S. Army Corps of Engineers, Sacramento District, is writing pursuant to 36 CFR 800.3(c)(3) and 800.4(a)(1) to inform you of the proposed Berryessa Creek (BC) flood control project near the cities of San Jose and Milpitas, Santa Clara County (enclosure 1). We are requesting that you comment on the area of potential effects (APE), pursuant to 36 CFR 800.4(a)(1). Compliance for this proposed project is being conducted in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR 800. In addition, we are commencing consultation with the Advisory Council on Historic Preservation (ACHP), inviting them to participate. We are developing a Programmatic Agreement (PA) and have enclosed a copy of the draft PA with project background information to you and the ACHP, requesting consultation and participation (enclosures 2 and 3).

The purpose of the proposed BC project is to reduce flood damages to areas of San Jose and Milpitas, reduce sedimentation and maintenance requirements, and provide aquatic and riparian habitat restoration and fish passage. The draft Berryessa Creek Project General Design Memorandum was completed in December 1993, but the proposed plan met with disfavor in the local community. The proposed project is now being reevaluated, and additional planning and development of alternatives is in progress.

The APE for the BC project is the Berryessa Creek watershed. This watershed encompasses about 22 square miles. The proposed project is located where Berryessa Creek flows west out of the Diablo Range into residential neighborhoods in San Jose and Milpitas. The APE is approximately 4.5 miles long, beginning approximately 600 feet upstream of Old Piedmont Road and extending downstream to Calaveras Boulevard and Highway 237 (enclosure 4). In accordance with 36 CFR 800.4(2), the proposed project is in the preliminary stage, and the APE may undergo adjustment as alternatives are considered and identified. An additional GIS map displays the potential detention basin sites within the APE (enclosure 5). The local sponsor for the project is the Santa Clara Valley Water District.

We have completed a records and literature search at the Northwest Information Center at Sonoma State University, Sonoma. We will also check the National Register of Historic Places and the California Historic Bridge Inventory, conduct a field survey, and consult with Native Americans.

Correspondence may be sent to:

Ms. Melissa Montag (CESPK-PD-R)
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

If you have any questions or comments, please contact either Ms. Melissa Montag, Social Scientist, at (916) 557-7907 or email: melissa.l.montag@usace.army.mil, or Mr. Richard Perry, Archeologist, at (916) 557-5218 or email: richard.m.perry@usace.army.mil. Please contact Mr. Mitch Hayden, Project Manager, at (916) 557-5304 with any specific project questions.

Sincerely,

Tanis J. Toland

Tanis J. Toland
Chief, Environmental Analysis Section

Enclosures

**HISTORIC PROPERTY SURVEY REPORT
AND FINDING OF EFFECT**

**BERRYESSA CREEK PROJECT
CITIES OF SAN JOSE AND MILPITAS
SANTA CLARA COUNTY, CALIFORNIA**

PREPARED FOR THE

**U.S. ARMY CORPS OF ENGINEERS
SACRAMENTO DISTRICT**

1325 J Street
Sacramento, CA 95814-2922

ATTN: Richard Perry

**CONTRACT NO.: W912PL-07-D-0048
Task Order No.: CM08**

BY

BASIN RESEARCH ASSOCIATES, INC.
1933 Davis Street, Suite 210
San Leandro, California 94577
(510) 430-8441

DECEMBER 2010

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CORRESPONDENCE

LETTER	REQUEST TO NATIVE AMERICAN HERITAGE COMMISSION
LETTER	NATIVE AMERICAN HERITAGE COMMISSION RESPONSE

CHRIS/NWIC SEARCH RESULTS

SEARCH	File No. 08-0825 dated February 25, 2009
--------	--

SITE FORMS AND CARDS

FORM 1	CA-SCI-156 (P-43-000168)
FORM 2	CA-SCI-157 (P-43-000169)
FORM 3	CA-SCI-593 (P-43-000588) [Includes recent aerial photo with probable burial location; S-4296, S-8115, Cartier and Felippo 1987; Cartier and Filippo 1988; S-15929, S-15947]
FORM 4	P-43-001136, Berryessa Creek Reburial location
CARD 1	C-167, midden deposit; in/adjacent, may be part of CA-SCI-593

1.0 INTRODUCTION AND SUMMARY

This *Historic Property Survey Report/Finding of Effect* (HPSR/FOE) report represents the identification and evaluation effort and application of effect completed for the proposed Berryessa Creek Project (Undertaking) Reaches 1-9 from Calaveras Boulevard (State Highway 237) south and easterly to Old Piedmont Road in the Cities of Milpitas and San Jose, Santa Clara County.¹ The U.S. Army Corps of Engineers (Sacramento District), in association with its local partner the Santa Clara Valley Water District, is proposing various flood channel improvements along an approximate four mile alignment of Berryessa Creek extending from Calaveras Boulevard on the north, to the Montague Expressway on the south and then trending west to Old Piedmont Road.

The project scope of work for the project's technical report required: an updated records and literature search; a pedestrian survey of the Area of Potential Effects (APE); test excavation of CA-SCI-593 (P-43-000588); preparation of an updated site record form; recordation of all previously unrecorded cultural resources if any; recommendation(s) of National Register eligibility, and a finding of effect pursuant to Section 106 of the National Historic Preservation Act of 1966 as Amended, and its implementing regulations 36 CFR Part 800. This document focuses only on the results of the archival search and pedestrian survey.²

This report has been prepared to meet applicable federal regulatory requirements for historic properties (cultural resources) which require the identification and evaluation of cultural resources that could be affected by the undertaking. The Corps is the NEPA responsible entity and is required to complete the federal regulatory requirements for cultural resources pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended) (16 U.S.C., Section 470f) and its implementing regulations 36 CFR Part 800. The regulations require a federal agency with jurisdiction over a federal, federally assisted or federally licensed undertaking to take into account the effort of the undertaking on properties listed on or eligible for the National Register of Historic Places (NRHP) and to afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking.

This HPSR/FOE provides supporting materials for the Section 106 identification and evaluation including the results of a records search, a review of pertinent literature, partial consultation Native Americans, and a field review and requests the SHPO to concur that: (1) the identification effort is complete pursuant to 36 CFR Part 800.4(a)-(c); (2) a finding of *Historic properties affected* (36 CFR Part 800.4(d)(2)); and, (3) the proposed project - construction including excavation through the site - constitutes an adverse effect.

-
1. Basin Research Associates project personnel meet or exceed the standards of the Secretary of the Interior and consisted of: archaeologists Dr. Colin I. Busby (Ph.D., Principal), Dr. Donna M. Garaventa (Ph.D., Researcher/compiler), Mr. Christopher Canzonieri (M.A., Physical Anthropologist and Archaeologist), Mr. Stuart Guedon (M.A., Historic Geographer and Archaeologist), Ms. Melody Tannam (B.A., GIS Specialist and Archaeologist), and Ms. Johanna E. Twigg (M.S.).
 2. The Corps has postponed proposed archaeological test excavations at CA-SCI-593.

1.1 SUMMARY OF FINDINGS

One historic property, prehistoric archaeological site CA-SCI-593 (P-43-000588) which appears eligible for inclusion on the NRHP was identified in the APE as result of archival research and a field inventory.

1.1A Identification Effort

The identification effort included archival research, a review of pertinent literature, a systematic archaeological field inventory of the project alignment and consultation with the Native American Heritage Commission (NAHC). Four resources are present within or adjacent to the alignment and include three prehistoric archaeological sites and one reported but not recorded prehistoric resource that may be associated with one of the recorded sites:

CA-SCI-156 (P-43-000168), a "flake scatter" (a single flake and two shells with some possible fire-affected rock) recorded within portions of Reaches 7/8 was not relocated during the archaeological inventory.

CA-SCI-157 (P-43-000169) an "open ? artifact [not described]; adjacent to Bypass Alternatives 1 and 2. Isolated artifact was not relocated.

CA-SCI-593 (P-43-000588), prehistoric site with reported Native American burials was relocated in Reach 3.

A reported but unrecorded cultural resource, C-167, identified as a midden deposit in Reach 3 was not relocated. C-167 may be part of CA-SCI-593 based on previous research.

1.1B Finding of Effect

One historic property, prehistoric site CA-SCI-593 (P-43-000588) in Reach 3, appears eligible for inclusion on the National Register of Historic Places under criterion d. The proposed flood control measures may adversely affect this archaeological resource (36 CFR Part 800.5(a)(1-2)). A finding of *Historic properties affected* (36 CFR Part 800.4(d)(2)) is appropriate since the proposed undertaking may adversely affect a historic property listed, determined eligible or potentially eligible for the National Register of Historic Places.

1.2 RECOMMENDATIONS

The extent of CA-SCI-593 is not known. It is probable that the resource includes a larger portion of Berryessa Creek and extends into the surrounding area east of the present channel. Presence/absence testing is recommended prior to construction to determine the horizontal and vertical extent of the site and provide an indication of site integrity. This action will complete the identification and evaluation effort and allow the Corps and its local partner to plan for future mitigation due to potential construction impacts.

1.3 MITIGATION MEASURES

The proposed project has not yet been designed. It is expected that a *Memorandum of Agreement* between the U.S. Army Corps of Engineers (Sacramento District) and their local partner the Santa Clara Valley Water District and the State Historic Preservation Officer will be developed and negotiated to treat any adverse effects to the Nation Register of Historic Places eligible resource.

2.0 LOCATION AND DESCRIPTION

The U.S. Army Corps of Engineers (Sacramento District) (Corps), in association with its local partner the Santa Clara Valley Water District, is proposing various flood channel improvements along an approximate four mile alignment of Berryessa Creek (the undertaking) extending from Calaveras Boulevard (State Highway 237) on the north (Reach 1) south crossing Montague Expressway³ continuing south and then southeasterly and easterly to Old Piedmont Road (Reach 9) in the Cities of Milpitas and San Jose, Santa Clara County⁴ (United States Geological Survey [hereafter USGS], Milpitas, Calif[ornia] 1980 and Calaveras Reservoir, Calif[ornia], 1980, Township 6 South, Range 1 East, Unsectioned) [Figs. 1-3].

The Corps scope of work for the project's technical report required: an updated records and literature search; a pedestrian survey of the Area of Potential Effects (APE); test excavation⁵ of CA-SCI-593 (P-43-000588); the preparation of an updated site record form; recordation of all previously unrecorded cultural resources if any; recommendation(s) of National Register of Historic Places eligibility; and, a finding of effect pursuant to Section 106 of the National Historic Preservation Act of 1966 as Amended, and its implementing regulations 36 CFR Part 800.

2.1 AREA OF POTENTIAL EFFECTS (APE)

The Area of Potential Effects (APE) consists of nine reaches (Reaches 1-9) starting at Calaveras Boulevard (State Highway 237) south to Cropley Avenue and then trending east along the existing Berryessa Creek to just east of Piedmont Road. In addition, there are two Bypass Alternatives. Bypass Alternative 1 extends along Cropley Avenue⁶ from Reach 5 to the division between Reaches 7 and 8. Bypass Alternative 2 extends from the division between Reach 6-7 northeasterly to and along Cropley Avenue to the division between Reaches 7 and 8. Reaches 1 to part of Reach 4 are located in the City of Milpitas; part of Reach 4 to Reach 9 and Bypass Alternatives 1-2 are located in the northeastern portion of the City of San Jose [see Figs. 2-3].

3. Montague Expressway west of I-680; Landess Avenue east of I-680.

4. Reach 0 located north of Calaveras Boulevard north to Calera Creek/Lower Penitencia Creek is not part of the APE.

5. The Corps has postponed proposed archaeological test excavations at CA-SCI-593.

6. Note: the USGS topographic quadrangle maps use Cropley "Road."

The APE extends a minimum of approximately 10 feet (3 meters) from the top of the creek bank to a maximum area of approximately 177 feet (54 meters) on the east side of the creek to the railroad (e.g., Reach 3 vicinity of CA-SCI-593 (P-43-000588)). The urban Bypass Alternatives 1 and 2 alignments are limited to the proposed alignment, mostly along Cropley Avenue.

Reaches 1-9 and Bypass Alternatives 1 and 2 were subject to an archaeological survey for this report [see Figs. 3 and 6].

Reaches 1-9

Reach 1 - Calaveras Boulevard to Los Coches Bridge

Reach 2 - Los Coches Bridge to Piedmont Creek

Reach 3 - Piedmont Creek to Montague Expressway

Reach 4 - Montague Expressway to I-680

Reach 5 - I-680 to Morrill Avenue

Reach 6 - Morrill Avenue to Secondary Sedimentation Basin

Reach 7 - Secondary Sedimentation Basin to Cropley Avenue

Reach 8 - Cropley Avenue to Old Piedmont Cul de Sac

Reach 9 - Old Piedmont to Upper Project Boundary

Alternatives

Bypass Alternative 1 - from the westerly trending portion of Reach 5 along Cropley Avenue crossing Piedmont Road to Berryessa Creek

Bypass Alternative 2 - from Reach 6/7 northeasterly to Cropley Avenue, along Cropley Avenue crossing Piedmont Road to Berryessa Creek

3.0 REGULATORY CONTEXT

This report has been prepared to meet applicable federal regulatory requirements for historic properties (cultural resources) which require the identification and evaluation of cultural resources that could be affected by the project. Cultural resources include prehistoric and historic archaeological sites, districts and objects; standing historic structures, buildings, districts and objects; and locations of important historic events or sites of traditional/cultural importance to various groups. The analysis of cultural resources can provide valuable information on the cultural heritage of both local and regional populations.

The proposed undertaking must comply with Section 106 of the National Historic Preservation of 1966 (NHPA) and its implementing regulations 36 CFR Part 800 which requires a federal agency with jurisdiction over a federal, federally assisted or federally licensed undertaking to take into account the effect of the undertaking on properties listed on or eligible for the National Register of Historic Places (National Register) and prior to approval of an undertaking to afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking.

The U.S. Army Corps of Engineers, Sacramento District (Corps) is the lead federal agency, the Santa Clara County Water District is the lead state agency and the California State Historic Preservation Officer (SHPO) is the reviewing party.

4.0 BACKGROUND REVIEW

4.1 ENVIRONMENTAL SETTING

The project alignment is located within the northern Santa Clara Valley defined as an approximately northwest-southeast trending very gently sloped geosstructural trough about 105 km (65 miles) long, stretching in the north from about the present Santa Clara County line, south to a point about 10 km (6.2 miles) south of the town of Hollister, where the San Benito River meets a widening alluvial plain. The trough is bounded on the east by the Mt. Hamilton and San Carlos ranges, both segments of the Diablo Range, which separates the Santa Clara Valley from the Great Interior or Central Valley. On the west, the boundary coincides with the Santa Cruz Mountains, in the north, and the Gabilan Range, to the south. These two ranges are separated by an impressive wide canyon or valley.

A number of major land cover types were present in the valley prior to Euro-American development. The types included freshwater marshes, wet and alkali meadows, willow groves, and valley oak savanna in addition to riparian habitat, grasslands and tidal flats along the bay. These all experienced significant declines over the past 150 years with impacts on both the native plant and animal communities. In addition, water and flood control projects have resulted in significant vegetation and channel changes along the major water courses including Coyote Creek and the Guadalupe River.

The valley climate is Mediterranean and is characterized with warm summers, and wet winters although the surrounding mountains and proximity to the Pacific Ocean moderate the weather (Broek 1932). In addition, there is at least three times as much rainfall in the wettest month as during the driest summer month with an average of 10-20 inches per year. During the summer, winds from the usual high pressure area off the coast flow into the valley from the direction of San Francisco Bay, as well as through a relatively low part of the Santa Cruz Mountains west of Los Gatos and through the Pajaro Gap.

The valley has experienced a number of climatological and physiographical changes over the past 10,000 years due to climatic change and earthquakes. Sea levels began to rise due to glacial melting until about 6000 years ago and then started to decline although land subsidence probably continued. By about 4000 years ago, San Francisco Bay had almost attained its present outline and marshes were forming, for example, at the mouths of the present-day Coyote Creek and Guadalupe River.

4.1A Local Setting

The project area is within a flat floodplain which extends south from the San Francisco Bay marshes and terminates/begins in the foothills of the Los Buellis Hills. The alignment ranges from 25-30 feet in elevation (Reach 1) gradually rising toward the

foothills of the Los Buellis Hills, ending with an elevation of 240 feet (Reach 9) (USGS Milpitas, Calif. 1980 and Calaveras Reservoir, Calif. 1980) [Fig. 2].

The primary drainage of the area, the Guadalupe River is approximately 2.4 miles west of the alignment and drains into San Francisco Bay via Alviso Slough to the north. Coyote Creek, approximately 1.6 miles west of the alignment is also a major drainage within the Santa Clara Valley and is roughly 1.8 miles to the east of the Guadalupe River. It is the longest stream flowing out of the Diablo Range into the San Francisco Bay margin. Subsidiary creeks within or crossed by the project alignment include: the Arroyo del los Coches at the southern end of Reach 1/northern end of Reach 2, Piedmont Creek at the southern end of Reach 2/northern end of Reach 3. Culverted Sweigert Creek flows into Reach 7 of Berryessa Creek (Sowers and Thompson 2005) [see Figs. 2-3].

During the Late Pleistocene, the Guadalupe was an embedded river, but in more recent times (since the stabilization of the San Francisco Bay shoreline) has become an aggrading river (see Atwater et al. 1977). The shifting, meandering nature of the Guadalupe River also produced a subtly uneven topography throughout the floodplain. Small basins and other slight topographic depressions played a key role in the ecology and subsistence patterns of the area. In 1963, however, the Guadalupe River channel was straightened, dredged, and its levees built up substantially as part of a flood control program.

Coyote Creek is the dominant physical feature along the eastern edge of the Santa Clara Valley with a length of 26 miles across the plain. In contrast to the perennial waters of the Guadalupe River, Coyote Creek was dry at the surface most of the year. It was bordered by broad benches or terraces creating a barrier to transportation and growth. The stream channel was a barrier to high flows along most of its length and flooding does not seem to have been a problem until the early 20th century due to flood control and urban expansion. In the project area, stream morphology was a relatively shallow, meandering channel characteristic of a slow-moving perennial lowland stream with periodic flooding due to high water flows. The creek terminated at the Alviso Slough creating a brackish and freshwater tidal marsh (see Grossinger et al. 2006).

The native environment was basically a low grassland dotted with spring-fed marshes and basins. A number of ecotones exist within a few miles of the project area, including riverine grassland, grassland/saltmarsh, grassland/fresh-water marsh, grassland/oak plain, saline tidal zones, and fresh-water shrub/tree microhabitats (see Fentress in Cartier (ed.) 1979:58b; also Mayfield 1978, 1980).

Berryessa Creek

Berryessa Creek has been subject to channelization, stream maintenance, and erosion control. Reaches 1-6 of the Berryessa Creek APE consist of modified/channelized alignment with flood control features (e.g., cement channel around curves) with a minimally modified profile through the residential Reaches 7-8 and Reach 9. The terrain along the banks of Berryessa Creek rises gently until it is steep and hilly at Reaches 8 and 9 on the western slope of the Los Buellis Hills (part of the Diablo Range).

The study area includes light industrial, commercial, and residential properties along with a Berryessa Creek Park.⁷ The APE crosses a number of streets/roads including the Montague Expressway at Reach 3/4 and I-680 by Reach 5. In addition, Reach 3 is crossed by various Union Pacific Railroad spurs that serve various facilities in the City of Milpitas.

4.1B Topography/Sedimentary Context

Geological mapping indicates that the project area surface deposits are Holocene alluvium (see Witter et al. 2006). Recent mapping by Witter et al. (2006) shows the majority of the alignment within Holocene alluvial fan deposits (less than 11,800 years old) and modern stream channel deposits (Qhc; less than 150 years) which consist of fluvial deposits within an active, natural water channel (Witter et al. 2006) [Fig. 5].

4.2 NATIVE AMERICAN

Cultural resources are traces of human occupation and activity. In northern California, cultural resources extend back in time for at least 9,000-11,500 years with Native American occupation and use of the Santa Clara Valley extending over 5,000-8,000 years and possibly longer.

4.2A Prehistoric

The project area is located within an area favored by Native Americans for both occupation and hunting and collecting activities. The area would have provided a favorable environment during the prehistoric period with riparian and inland resources readily available and the bayshore in relative close proximity. Native American occupation sites appear to have been selected for accessibility, protection from seasonal flooding, and the availability of resources for both food and industrial use.

Archaeological information for the general Bay Area suggests a slow steady increase in the prehistoric population over time with an increasing focus on permanent settlements with large populations in later periods. This change from hunter-collectors to an increased sedentary lifestyle is due to more efficient resource procurement as well as a focus on staple food exploitation, the increased ability to store food at village locations, and the development of increasing complex social and political systems including long-distance trade networks.

Prehistoric site types recorded in the valley include habitation sites ranging from villages to temporary campsites, stone tool and other manufacturing areas, quarries for tool stone procurement, cemeteries usually associated with large villages, isolated burial sites, rock art locations, bedrock mortars or other milling feature sites, and trails (Elsasser 1986:32).

Archaeological research in the region has been interpreted using several chronological schemes based on stratigraphic differences and the presence of various cultural traits. A

7. Berryessa Creek Park is located in Reach 7 along the south bank of the creek between Baywood Square on the west and Minto Drive on the east.

three-part cultural chronological sequence, the Central California Taxonomic System (CCTS) was developed by archaeologists to explain local and regional cultural change in prehistoric central California from about 4,500 years ago to the time of European contact (Lillard et al. 1939; Beardsley 1948, 1954). This classification scheme, consisting of three horizons - Early, Transitional and Late, has been revised although the prior nomenclature (Early, Middle, Late Horizon) is still in common use (see Fredrickson 1994). Moratto (1984) suggests the Early Horizon dated to ca. 4,500 to 3,500/3,000 years ago with the Middle Horizon dating to circa 3,500 to 1,500 years ago and the Late Horizon dating to circa 1,500 to 250 years ago [see Table 1]. Allen (1999) has presented a four-period chronological framework for the Northern Santa Clara Valley/Southern San Francisco Bay region using the Bennyhoff and Hughes (1987) taxonomy as revised by Milliken and Bennyhoff (1993) and Fredrickson (1994) [see Table 2].

The **Early Horizon** is the most poorly known of the periods. Basic Early Horizon traits include hunting and fishing for subsistence and the presence of milling stones for vegetal food processing, use of the atlatl (i.e., throwing board and spear), and a relative absence of fire-altered rock, greasy midden, organic soil, charcoal, and ash in the middens (culturally affected soils). Early Horizon cultures practiced elaborate burial rituals and placed a wealth of goods in graves of the dead. Well-developed trade networks with other areas of the Pacific Coast and Sierra Nevada were also developed by this time. It is believed that the initial occupation of central California was by Hokan-speaking peoples.

Middle Horizon sites are more common and are relatively better known than Early Horizon sites. These sites usually have deep, stratified deposits that contain large quantities of ash and charcoal, fire-altered rock, and fish, bird, and mammal faunal remains. The presence of significant numbers of mortars and pestles is suggestive of a growing reliance upon gathered plant foods as opposed to hunted animal foods. The aboriginal populations were unchanged from Early Horizon peoples. Burials were usually flexed and only a small proportion of the graves contained artifacts, which were usually utilitarian. An increase in violence is suggested by the number of Middle Horizon burials found with projectile points embedded in the bones or with other marks of violence.

The **Late Horizon** emerges from the Middle Horizon with the continued use of many early traits and the introduction of several new traits. Late Horizon sites are the most numerous and are composed of rich, greasy midden with bone and fire-altered rocks. Use of the bow and arrow, flexed interments, deliberately damaged ("killed") grave offerings, and occasional cremation of the dead are among the known traits of this horizon. Dietary emphasis on acorns and seeds is evident in this horizon. Trade with surrounding and other areas was well established for various raw materials. Compared to earlier peoples, Late Horizon groups were short in stature with finer bone structure, evidence perhaps of the replacement of original Hokan-speaking settlers by Penutian-speaking groups by circa 1,500 years ago.

General overviews and perspectives on the regional prehistory including chronological sequences can be found in C. King (1978a), Moratto (1984), Elsasser (1978, 1986), Allen (1999), Jones and Klar (2007). See Hylkema (2002) for detail regarding environment and chronology for selected archaeological sites from the southern San Francisco Bay

and the peninsula coast; Milliken et al. (2007) for chronological and taxonomic issues; Hughes and Milliken (2007); and, Milliken and Schwitalla (2009) for a concordance of time periods, patterns, and aspects in the San Francisco Bay Area and selected artifact sequences charts.

TABLE 1
Hypothesized Characteristics of Cultural Periods in California

Table 1 - Hypothesized Characteristics of Cultural Periods in California

1800 A.D. Upper Emergent Period Phase 2, Late Horizon	Clam disk bead money economy appears. More and more goods moving farther and farther. Growth of local specializations relative to production and exchange. Interpenetration of south and central exchange systems.
1500 A.D. Lower Emergent Period Phase 1, Late Horizon	Bow and arrow introduced replace atlatl and dart; south coast maritime adaptation flowers. Territorial boundaries well established. Evidence of distinctions in social status linked to wealth increasingly common. Regularized exchanges between groups continue with more material put into the network of exchanges.
1000 A.D. Upper Archaic Period Middle Horizon Intermediate Cultures	Growth of sociopolitical complexity; development of status distinctions based on wealth. Shell beads gain importance, possibly indicators of both exchange and status. Emergence of group-oriented religious organizations; possible origins of Kuksu religious system at end of period. Greater complexity of exchange systems; evidence of regular, sustained exchanges between groups; territorial boundaries not firmly established.
500 B.C. Middle Archaic Period Middle Horizon Intermediate Cultures	Climate more benign during this interval. Mortars and pestles and inferred acorn economy introduced. Hunting important. Diversification of economy; sedentism begins to develop, accompanied by population growth and expansion. Technological and environmental factors provide dominant themes. Changes in exchange or in social relations appear to have little impact.
3000 B.C. Lower Archaic Period Early Horizon Early San Francisco Bay Early Milling Stone Cultures	Ancient lakes dry up as a result of climatic changes; milling stones found in abundance; plant food emphasis, little hunting. Most artifacts manufactured of local materials; exchange similar to previous period. Little emphasis on wealth. Social unit remains the extended family.
6000 B.C. Upper Paleo-Indian Period San Dieguito Western Clovis 8000 B.C.	First demonstrated entry and spread of humans into California; lakeside sites with a probable but not clearly demonstrated hunting emphasis. No evidence for a developed milling technology, although cultures with such technology may exist in the state at this time depth. Exchange probably ad hoc on one-to-one basis. Social unit (the extended family) not heavily dependent on exchange; resources acquired by changing habitat.

TABLE 2
Comparison of California Cultural Period with Temporal Phases of Central California
(Allen 1999)

<i>Cultural Periods</i> (Fredrickson 1994)	<i>Dating Scheme B1</i> (Bennyhoff and Hughes 1987)	
	Year	Time Period
EMERGENT PERIOD		Historic Period
	AD 1800	
	AD 1700	Late Period Phase 2-B
	AD 1500	Late Period Phase 2-A
	AD 1300	Late Period Phase 1-C
	AD 1100	Late Period Phase 1-B
		Late Period Phase 1-A

TABLE 2, con't
Comparison of California Cultural Period with Temporal Phases of Central California
(Allen 1999)

<i>Cultural Periods</i> (Fredrickson 1994)	<i>Dating Scheme B1</i> (Bennyhoff and Hughes 1987)	
	Year	Time Period
UPPER ARCHAIC PERIOD	AD 900	
		Middle/Late Period Transition
	AD 700	Middle Period Terminal Phase
	AD 500	Middle Period Late Phase
	AD 300	Middle Period Intermediate Phase
	AD 100	Middle Period Early Phase
	200 BC	Early/Middle Period Transition
MIDDLE ARCHAIC PERIOD	500 BC	
		Early Period
	3000 BC	
LOWER ARCHAIC PERIOD		
	6000 BC	
PALEOINDIAN PERIOD		
	8000 BC	

4.2B Ethnographic

The aboriginal inhabitants of the Santa Clara Valley belonged to a group known as the "Costanoan", derived from the Spanish word *Costanos* ("coast people" or "coastal dwellers") who occupied the central California coast as far east as the Diablo Range.⁸

In 1770 the Costanoan lived in approximately 50 separate and politically autonomous tribelets with each group having one or more permanent villages surrounded by a number of temporary camps. Physiographic features usually defined the territory of each group which generally supported a population of approximately 200 persons with a range of between 50-500 individuals (Kroeber 1925:462; Levy 1978:485, 487; Hart 1987:112-113).

8. The term Costanoan, as applied by anthropologists, does not imply the existence of a politically unified entity, but rather, refers to different groups of people who shared similar cultural traits and belonged to the same linguistic family. An estimated 200+ and possibly more persons of partial Costanoan descent currently reside in the greater San Francisco Bay Area; these individuals now generally prefer the term *Ohlone* to the anthropologists' Costanoan (A. Galvan, personal communication 1990). See also Galvan (1967/1968), Margolin (1978), Bean (1994).

Tribelet boundaries and village locations are inexact due to incomplete historic records, and they remain a subject of anthropological contention and debate. The APE may have been situated within the former territory of the *Alson*, "*Santa Ysabel*"⁹ and/or possibly *Tamyen* (*Tamien*) subgroup of the Costanoan Indians (Kroeber 1925; Levy 1978:485, Fig. 1; Milliken 1983:139, Map 4; Milliken 1995:229, Map 5, 235, 256; Hylkema 1995:35-36, Map 6; Hart 1987:324).

Following Milliken (1995), the *Alson* "held the low marshlands at the very southern end of San Francisco Bay, probably both north and south of the mouth of the Coyote River, now the cities of Newark, Milpitas, and Alviso." This group was known as the "*Santa Agueda*"¹⁰ at Mission Santa Clara, established in 1777 and had been "nearly depleted" prior to the 1797, the year Mission San Jose was established in present-day Fremont. The "*Santa Ysabel*" held the eastern Santa Clara Valley and part of the upper Calaveras Creek drainage in the hills to the east with Coyote Creek on the west with their center at present-day Alum Rock on Penitencia Creek. Two specific villages of this group are found in Mission Santa Clara registers between 1777 to 1808, *Ottasimin* and *Socotach* (Milliken 1983:100-101; Milliken 1995:253; Milliken et al. 2007:100, Fig. 8.1). None of the ethnographic settlements mapped by Kroeber (1925) or Levy (1978) are situated in the vicinity of the APE.

Historic accounts of the distribution of tribelets and villages in the 1770s-1790s and the results of archaeological research in the area suggest that Native Americans may have had numerous temporary camps within the vicinity of the project throughout the prehistoric period and into the Hispanic Period. Unfortunately, extensive ethnographic data on the Costanoans are lacking and the aboriginal lifeway apparently disappeared by approximately 1810 due to introduced diseases, a declining birthrate, the cataclysmic impact of the mission system and the later secularization of the missions by the Mexican government (Kroeber 1925; King and Hickman 1973; Levy 1978).

For a more extensive review of the Costanoan see Kroeber (1925:462-473), Harrington (1942), King and Hickman (1973), C. King (1974, 1977, 1978b), Elsasser (1986), Levy (1978:485-495), Bean (1994), Brown (1994) and Milliken (1995).

4.3 HISTORIC ERA

4.3A Hispanic Period

The Spanish philosophy of government in northwestern New Spain was directed at the founding of presidios, missions, and secular towns with the land held by the Crown (1769-1821), while the later Mexican policy (1822-1848) stressed individual ownership of the land. After the secularization of the missions was declared by Mexico in 1833, vast tracts of the mission lands were granted to individual citizens (Hart 1987).

9. Steiner and Quick (1986/S-8270) place the APE within Santa Ysabel territory, noting that Mission Santa Clara records suggest that the main village "was along Coyote Creek, probably at a point where Upper Penitencia Creek flowed into it."

10. Note Hylkema (1995:36, Map 6) shows the Santa Agueda north of Mission San Jose on the south side of Alameda Creek.

Spanish explorers in the late 1760s and 1770s were the first Europeans to traverse the Santa Clara Valley. The first party, led by Gaspar de Portola and Father Juan Crespi, arrived in the Alviso area in the fall of 1769. Sergeant Jose Francisco Ortega of their party explored the eastern portion of San Francisco Bay and likely forded both the mouth of the Guadalupe River and Coyote Creek (Beck and Haase 1974:#16-17; James and McMurry 1933:8). The following year, 1770, Pedro Fages led another party through the Santa Clara Valley and in 1772 Fages returned with Crespi. A few years later, in 1776, Juan Bautista de Anza and Father Pedro Font traveled through the region and their favorable reports led to the establishment of both Mission Santa Clara and the Pueblo San Jose de Guadalupe in 1777.

As mapped by Beck and Haase (1974:#17), Ortega's 1769, Fages' 1770, and Anza-Font's 1776 expeditions would have crossed Reach 0 just north of present-day State Highway 237/Calaveras Boulevard. The 1776 Juan Bautista de Anza route, a designated National Historic Trail as mapped by the National Park Service (USNPS 1995), crosses Reach 0 just north of present-day State Highway 237/Calaveras Boulevard.

Mission Santa Clara de Asis, founded 1777, was the eighth of the 21 missions in California and one of seven missions located within Costanoan territory. Mission Santa Clara would have been the mission with the greatest impact on the aboriginal population living in the project vicinity. The Pueblo of San Jose also founded in 1777 was the first *pueblo* in Alta California - civilian settlement - founded to administer and coordinate the missions and presidios in the province (Hall 1871:48; Hart 1987:446, 454).

Ranchos, Tracts, and Roads

The APE south of Calaveras Road to Cropley Avenue is located within the former *Rancho Milpitas* (Alviso) and far northwest portion of former Pueblo Lands of San Jose de Guadalupe. The project and vicinity would have been suitable for grazing cattle, the major economic pursuit of the Santa Clara Valley and California during the Hispanic Period (Stratton 1862; Thompson 1866; Hendry and Bowman 1940; USGS 1980).

*Rancho Milpitas*¹¹ (Berreyesa) [sic] was granted by Pedro Chaboya, *Alcalde*¹² of San Jose in May 1834 to Nicolas Berreyesa [sic],¹³ but was rejected. Chaboya was *Alcalde* in 1836, at the same time Nicolas Berryessa (1761-1804) was a member of the Anza expedition (1776), a *regidor*¹⁴ of the Pueblo of San Jose, and married Gracia Padilla (a

11. Variouslly:

Milpita - town or vegetable gardens (Perez 1996:246);

Milpitas - Nahuatl (Aztec) for "Corn Patches" or "Little Corn Fields" (Arbuckle and Rambo 1968:23); or

Milpitas - "maize field" (Hoover et al. 1966:443).

12. *Alcalde* - "Municipal officer with administrative and judicial functions." (Barnes et al. 1981:131)

13. Variouslly spelled Berryessa, Berryesa or Berreyesa and also Berrelleza in Gudde (1998:34).

14. a member of the *cabildo* or "municipal corporation of town council charged with local municipal government (Barnes et al. 1981:133, 137

member of the Peralta family) and had eleven children. As a result, the family had large landholdings in the present-day counties of Santa Clara, Napa, Alameda, and Sonoma. Berryessa's [*sic*] life was problematic - he was subject to the predations of John C. Fremont's battalion during the Bear Flag Rebellion who not only "plundered" his cattle, but killed the son of his brother, Jose de los Reyes near San Rafael in June 1846. In addition, he had problems with squatters and his claim for Rancho Milpitas was rejected. Berryessa died insane in 1863 (Hoover et al. 1966:443-444; Egan 1977:543, #33).¹⁵

After *Rancho Milpitas* had been granted by Alcalde Pedro Chaboya to Nicolas Berreyesa in 1834, Governor Castro granted *Rancho Milpitas* (Alviso) in September and October 1835 to Jose Maria Alviso. After a dispute with Jose Higuera about the boundary with *Rancho Tularcitos*, the Arroyo de los Coches was designated the northern boundary of *Rancho Milpitas*. The *Rancho Milpitas* was patented to the heirs of Jose Maria Alviso in June 30, 1871. None of the known Hispanic era dwellings or other cultural features were located in or adjacent to the APE (Stratton 1862; Hendry and Bowman 1940:856-863; Hoover et al. 1966:444; Arbuckle and Rambo 1968:23-24; USGS 1980).

Potential Hispanic Era Resources

Four Berryessa Palizada¹⁶ Dwelling Sites, dating to the early 1830s (prior to 1833) initially appear to have been built in/adjacent to Reach 9 ". . . in a row on the south bank of Berreyesa Creek just west of Piedmont road [Old Piedmont Road (US War Dept 1943)] and two miles south of the Alviso adobe and the Calaveras road. One of two of them may have been within the boundaries of the Milpitas grant as patented" (Hendry and Bowman 1940:862, H&B #18-21). However, historic maps indicate that these structures were located not in or adjacent to Berryessa Creek, Reach 9, but rather were situated south of Rancho Milpitas within the Pueblo Lands of San Jose. The 1850-1851, 1853, and 1857 maps show eastern and southern rancho boundaries that differ from the rancho as patented. The southern boundary of Rancho Milpitas/Milpitas Rancho as patented is along Cropley Avenue and not about 0.4 miles south as shown on the early 1850s maps.

The 1850-1851 Sherman Day map of *Rancho de las Milpitas* places a cluster of four "Berryeza" buildings approximately 0.25 miles south of Berryessa Creek close to the rancho boundaries granted to Alviso.¹⁷ This map also shows "Berryeza's Garden" approximately 0.7 miles west of these buildings adjacent to the south bank of the creek east of Morrill including a small part of APE Reach 7. A building owned by "Jaques"

15. Namesakes include Berryessa Creek, settlement of "Berryessa" (within the former Pueblo Lands of San Jose to the Pueblo of San Jose), a school, and road in Santa Clara County, as well as a valley and artificial lake in Napa County (Hart 1987:46).

16. Impermanent dwellings - a Spanish variant of the Kentucky log house, were "constructed of poles set upright in the ground and bound together with leather thongs; it was roofed with earth or thatch and sometimes whitewashed in the interior with lime made from sea shells." These structures were not very durable and were normally replaced with adobe brick buildings as soon as conditions permitted the construction of permanent buildings (Kirker 1973:2).

17. As patented the southern rancho boundary is about 0.4 mile further north along Cropley Avenue. As a result, the cluster is situated within in Pueblo Lands.

was located about mid-point on the southern boundary of the garden about 0.25 miles south of the APE. An 1853 White map also places three "Berriesys" [?spelling] buildings in about the same location south of an "arroyo" [present-day Berryessa Creek]. The 1857 Thompson *Map of the Milpitas Rancho* shows a single "Berreyesa's House" between two "arroyo" (e.g., Berryessa and Penitencia creeks) which flowed though the eastern rancho boundary.

4.3B American Period

The population of the Santa Clara Valley expanded as a result of the Gold Rush (1848), followed later by the construction of the railroad to San Francisco (1864) and the completion of the transcontinental railroad in 1869. Throughout the late nineteenth century in the Santa Clara Valley, rancho, Pueblo, and mission lands were subdivided as the result of population growth, the Anglo-American takeover, and the confirmation of property titles. Prior to the legal resolution of titles, the transfer of real estate was extremely risky. Large cattle ranches were converted to farming varied crops, and this agricultural land-use pattern continued throughout the American Period.

During the early American Period (1847-1876) stock raising predominated, but declined after the drought of 1863-1864, after which wheat-growing became the primary agricultural activity (Bean 1978) along with dairy farms, and orchards in the 1860s-1870s. During this period, the first experiments with horticulture and other crops took place. The arrival of the San Francisco and San Jose Railroad (1863-1864), followed by the development of the refrigerator railroad car (ca. 1880s) had major impacts on the general area. After 1875, the success of many agricultural experiments and expansion of markets via rail encouraged the development of horticulture in the Santa Clara Valley. As a result, during the later American Period and into the Contemporary Period (ca. 1876-1940s), horticulture/fruit production became a major industry. From 1875 onward, the need for an expanding market led to innovations in fruit preservation and shipping including drying fruit, canning fruit, and shipping fresh fruit in refrigerated cars (Findlay 1985:13). In turn, this created a wider economic boom which attracted new residents to the Santa Clara Valley (Broek 1932:76-83; Hart 1987).

Reaches 1 to 4 are in the City of Milpitas while a portion of Reach 4 and Reaches 5-9 and Bypass Alternatives 1-2 are located in the northeastern part of the City of San Jose. The county, named after Mission Santa Clara, was one of the original 27 counties of California. San Jose has been the county seat since the beginning and was not only the first pueblo in Alta California, but also the first capital of the State of California. Within the Santa Clara Valley, the City of San Jose, founded in 1777 under Spanish authority, served as a County seat, a primary service as well as financial and social center. Most of the institutions for higher education and the citizen elite resided in San Jose or its twin, the city of Santa Clara (Broek 1932; Hendry and Bowman 1940:750; Hoover et al. 1966:425; Hart 1987:445-446; Patera 1991:188).

San Jose has functioned as the "chief city" annexing former smaller rural settlements such as Berryessa. The Pueblo of San Jose, located in what is now downtown San Jose from about E. Julian south to San Salvador, later expanded to include the former

settlement of **Berryessa**,¹⁸ named in honor of Nicolas Berryessa, initially about four miles northeast of San Jose. The small village of Berryessa was situated in a noted "rich fruit region" complete with drying plants. It warranted a post office (May 1889 to October 1904). It included a school, church, store, and blacksmith shop and a number of residences by 1896. The post office was reestablished June 1976 as a classified station of the City of San Jose (*San Jose Mercury* 1896:132; Broek 1932; Hendry and Bowman 1940:Map of Pueblo San Jose about 1803 to 1854; Patera 1991:18; USGS 1980).

Milpitas, approximately five miles northeast of the center of Santa Clara and seven miles north of the center of Pueblo of San Jose was located on the western boundary and named after the Rancho Milpitas. The Town was initially known to the Spanish as "Penitencia," purportedly after the creek to the west named for "a house of penitence, a small adobe building where priests from the mission came at stated intervals to hear confessions" (Hoover et al. 1966:444). It was a "sporting center" for Mexicans living in the general area at least once a year with horse racing, dancing, bull fighting, and other Mexican sports. The historic center of Milpitas, about 0.75 miles west of Reach 1, was on the flatlands inland from of Southern San Francisco Bay at about the confluence of Arroyo de las Coches and Penitencia Creek and along the road east to Calaveras Valley and the north-south mission road, later known as the "Road from Oakland to San Jose." It was initially settled by an Irishman, Michael Hughes in 1852, followed by a store and school in 1855, a post office in May 1856,¹⁹ and hotel in 1857. The soils in the area were exceptionally fertile, peculiarly suited to vegetables and strawberries as well as pears and asparagus. Further east wheat and hay were profitably grown (Stratton 1862; Munro-Fraser 1881:305-306; *San Jose Mercury* 1896:104, 106; Sawyer 1922:296; Hoover et al. 1966:444; Loomis 1986:1; Patera 1991:136).

During the early American Period, the study area was apparently sparsely settled, appropriate for cattle grazing, and later raising crops [see Fig. 4]. As a result, both Milpitas and Berryessa were and still are stops on the rail routes through the general study area. Milpitas was a noted shipping depot (*San Jose Mercury* 1896:106).

Historic Map Review

The 1958 *Soil Map Santa Clara Area - California* (USDA/SCS 1958) shows no Kitchen Middens (Ka) in or adjacent to the APE. This map maps Berryessa Creek westerly to Capitol Expressway. Reaches 0-4/part of 4 did not exist at the time this map was made.

The *Creek & Watershed Map of Milpitas & North San Jose* (Sowers and Thompson 2005) with historical wetlands research by the San Francisco Estuary Institute indicates that only Reaches 6, 7, and 9 east of Morrill Road are "creeks" which have not been engineered or within underground culverts and/or storm drains. This map

18. "Beryessa" [*sic*] was located north of Penitencia Creek in the vicinity of Capital Avenue (Capitol Expressway) and Berryessa Road (e.g., Sawyer 1922:301).

19. as May 31, 1858 in Loomis (1986:7).

places a ca. 1850 willow grove mostly on the west side of Berryessa Creek at the confluence of present-day Los Coches Creek (Sowers and Thompson 2005).

The 1850-1851 Sherman Day Map of *Rancho de las Milpitas* shows the "Road to the Mission San Jose" along Penitencia Creek along with a number of isolated structures and a cluster of four "Berryeza" buildings within the far southeastern part of rancho. This building cluster is mapped at least 0.25 miles south of Berryessa Creek. As patented the southern rancho boundary is about 0.4 mile further north (e.g., Cropley Avenue), thus placing the cluster within in Pueblo Lands. The east part of Reach 7 as well as Reaches 8 and 9 conform to the 1850-1851 "Arroyo del Finado Martines."²⁰ The creek is shown flowing past "Berryeza's Garden" and then northerly through an area of trees into an extensive marshy area. This map indicates that CA-SCI-593 (P-43-000588) was located on the eastern periphery of the trees, east of the marshy area. "Berryeza's Garden" was situated approximately 0.7 miles west of the "Berryeza" buildings adjacent to the south bank of the creek including a small part of Reach 7 within the narrow western portion of Berryessa Creek Park in the vicinity of present-day Castlegate Drive. A building owned by "Jaques" was located about mid-point on the southern boundary of the garden about 0.25 miles south of the alignment.

White's 1853 *Plot representing the Location of School Land Warrants Nos. 135 & 136; also S.O. Houghton's pre-emption Claim of 160 acres* shows area west of the eastern boundary of Rancho Milpitas. This 1853 map places three "Berriesys" buildings in about the same location as the 1850-1851 Sherman Day map, south of an "arroyo" [present-day Berryessa Creek].

Stratton's 1862 Plat of the *Milpitas Rancho* finally confirmed to The Heirs of Jose Maria Alviso shows and labels a "Sausal"²¹ or sink of Milpitas Creek" [Berryessa Creek] and another along the southwestern boundary of the rancho, southwest of Berryessa Creek. No other features are located in the vicinity of the creek. At the time, a "Road from Milpitas to Calaveras Valley" is shown crossing the northern rancho boundary, two road converge on "Milpitas Village", one "Road" from the west side and crossing "Penitencia Creek" and the other the north/south "San Jose & Oakland Road"²² which follows the east side of Penitencia Creek.

Healey's 1866 *Official Map of the County of Santa Clara* provides rancho names, owners, and boundaries and shows structures along the road in Milpitas (not labeled). Calaveras Road/Boulevard (not labeled), the "Arroyo de los Coches," and Berryessa Creek (not labeled) are also shown. The creeks are mapped flowing into

20. rivulet, small stream, or brook of the deceased Martines [former owner Martinez].

21. *Sausal* - grove of willows (Perez 1996:248).

22. Labeled "Road form Oakland to San Jose" as it proceeds through the southwest corner of Rancho Milpitas. Present-day Oakland Road in San Jose and Main Street in Milpitas.

Penitencia Creek after crossing the Western Pacific Railroad (WPRR) San Jose Branch tracks²³ and north/south road through Milpitas from San Jose northward.

Thompson's 1866 *Map of the Pueblo Lands of San Jose* finally confirmed to Mayor and Common Council of the City of the City of San Jose shows "Milpitas" in the northwest corner of Rancho Las Milpitas and "Milpitas CR. [creek]", present-day Berryessa Creek, flowing into "Sausal or sink of the Creek" east of "Penitencia Creek".

Whitney's 1873 *Map of the Region Adjacent to the Bay of Bay Francisco* is similar to Thompson's but does not label the sausal/sink - shown as a moderately illegible map symbol - associated with "Milpitas Cr.". None of the buildings noted on the map appear to have been located in/adjacent to the alignment.

Thompson and West's 1876 *Historical Atlas of Santa Clara County* maps "Berryessa Creek" flowing from the hills into "Penitencia Creek" - and not into a "sausal." Berryessa Creek passes through a number of irregularly shaped tracts crossing "Milpitas and Beryessa Road" [present-day Great Mall Parkway/Capitol Expressway], the "Western Pacific" and "Milpitas Road." From east to west these tracts consist of 186 acres owned by Carmen A. DeNarvez; 270.50 acres owned by Tito de la Roasa; 91.56 acres owned by William Bowman²⁴; 53.71 acres²⁵ and 183 acres owned of Robert Welsh; and, from south to north, a large tract of 1578.93 held acres by Martin Murphy. This map maps and labels rancho boundaries as well as "Milpitas" and "Depot" of the "Western Pacific" and "Oakland Road"/"Milpitas Road" west of the APE (Thompson and West 1876:25).

McMillan's 1905 *Official Map of the County of Santa Clara* shows further subdivision of rancho lands and changes in ownership with "Beryessa Creek" crossing Piedmont Road, "Milpitas Lane" which follows the southern boundary of Rancho Milpitas and currently known as Copley Avenue, and "Landes [*sic*] Avenue," "Capitol Ave," the tracks of the "CPRR" (Central Pacific Railroad), and "Milpitas Road."

The USGS topographic series provides additional information regarding the configuration of Berryessa Creek through time. The 1899 USGS San Jose topographic quadrangle, surveyed in 1895 has "Berryessa Creek" in the hills flowing west a relatively short distance (e.g., midpoint between Old Piedmont Road and Morrill Avenue) [see Fig. 4]. By 1895 Landess Avenue had also been built. Buildings appear to be shown along the creek in/adjacent/near Reach 7 near the hills. The 1943 US War Department San Jose, Calif. topographic quadrangle (photography 1939, topography 1942) shows Reaches 5 and 6 and part of Reach 7 of "Berryessa Creek" still flowing into Penitencia Creek. As in 1895, structures are shown in the

23. Built between 1917-1921; owned by Union Pacific Company (UP) (McMorris et al. 2002/form).

24. Located in Pueblo Tract No. 1.

25. Located in Pueblo Tract No. 1.

vicinity of the hills as well as at least one about midpoint near the south bank of Berryessa Creek (not labeled) between Piedmont Road and Morrill Avenue, two on the north bank of the east side of Morrill Avenue and one on the south bank on the west side of Morrill Avenue. The creek also crosses an unpaved road, a transmission line and then the Western Pacific tracks, etc. west of the alignment.

The 1961 USGS San Jose, Calif. Map shows "Berryessa Creek" passing through orchards flanking "Piedmont Road" to east of "Morrill Road." Orchards were also adjacent to the west bank of the creek in Reach 4 and east bank of Reach 3. By 1961, the channelized north/south section of Reaches 1-4 as well as Piedmont Creek at the boundary of Reaches 2 and 3 had been constructed. At the time, the creek channel proceeded west about 0.25 miles north of Calaveras Road. This westward channel conforms to a channel still shown on the 1980 USGS Milpitas quadrangle. By 1961, a railroad spur crossed the alignment just north of Landess Avenue. As shown on the 1980 USGS Milpitas and Calaveras quadrangles [Fig. 2], the buildings close to the creek on the 1943, 1961 and 1973 quadrangles had been removed by 1980 with the exception of buildings in the vicinity of Piedmont Road. Reach 0 between Calaveras and Jacklin Roads had been constructed/modified between 1973 and 1980. The northernmost portion of Reach 0 on the west side of the railroad tracks from about the north side of Jacklin Road to Calera Creek appears to have been built between 1961 and 1963 (USGS 1899, 1961, 1973, 1980; US War Dept 1943 [photography 1939, topography 1942]).

Map Summary

Berryessa Creek has also been known as "Arroyo del Finado Martines" (Day 1850-1851) and Milpitas Creek (e.g., Stratton 1862; Thompson 1866; Whitney 1873).

Prehistoric archaeological site CA-SCI-593 (P-43-000588) was located on the eastern periphery of trees west of a marshy area shown on Day's 1850-1851 Map of *Rancho de las Milpitas*. A much smaller marshy area, labeled "sausal" or "sink" or marked by a symbol is shown on Stratton's 1862 *Plat of the Milpitas Rancho*, Thompson's 1866 *Map of the Pueblo Lands of San Jose*, and Whitney's 1873 *Map of the Region Adjacent to the Bay of Bay Francisco*. By 1876, Berryessa Creek had been extended west to Penitencia Creek, apparently draining the "sausal" or "sink" (Thompson and West 1876:25).

The northeast corner of the ca. 1850-1851 "Berryessa's Garden" was adjacent to the south bank of Berryessa Creek in Reach 7 within Berryessa Creek Park in the vicinity of present-day Castlegate Drive (Day 1850-1851).

The majority of the alignment of Berryessa Creek has been modified with the exception of part of Reach 7 and all of Reaches 8 and 9 (e.g., east of Castlegate Drive - and definitely from Messina Drive east; Day 1850-1851). Reaches 5 and 6 and part of Reach 7 appear to have been constructed prior to 1942. The channelized north/south Reaches 1-4 portion along with Piedmont Creek at boundary of Reaches

2 and 3 appear to have been constructed 1942 and 1961 (US War Dept 1943; USGS 1961; USDA/SCS 1958 [map]).

4.4 ARCHAEOLOGICAL SENSITIVITY

Research conducted in the northern Santa Clara Valley since the early 1980s has underscored the high potential for buried prehistoric archaeological sites in the vicinity of the Guadalupe River and Coyote Creek as well as other drainages (e.g., see TCR 1980; Findlay and Garaventa 1983; Anastasio 1984; Ambro 1996; Basin Research Associates 1997; see Meyer 2000 for a summary).

The Guadalupe River and Coyote Creek were prime foci of prehistoric occupation in the Santa Clara Valley and Native American use of the project area continued into the Hispanic and American periods. Many of the prehistoric sites recorded in the general project area appear to be "midden" sites²⁶ and include both former mound sites as well as sites now buried under sedimentary soils. A number of the recorded sites have yielded Native American skeletal remains ranging from isolated burials to several hundred individuals associated with prehistoric village locations. Chronologically, occupation in the area clearly ranges from the Middle Archaic Period (3000-500 B.C.) to the Late Emergent Period (A.D. 1800) with many of the sites having multiple occupations through time but non-continuous occupations through time.

The prevalence of buried archaeological sites in the general area is largely due to the repeated overbank flooding of the Guadalupe River and Coyote Creek which have resulted in the deposition of alluvium throughout the area especially in the vicinity of the extant water courses (TCR 1980:24).²⁷ Researchers have noted that there is usually no surface indication of buried prehistoric cultural materials and often the presence of large, complex sites is not clearly suggested by the occasional sparse surface indicators noted during a surface inventory.²⁸

Several researchers in the Santa Clara Valley have noted that the presence/absence of certain soil types may indicate some potential for buried cultural resources. Anastasio (1988) has observed that Upper Archaic Period sites in the Guadalupe River floodplain tend to be associated with basin soils, while the later Emergent Period sites tend to be associated with alluvial soils.

26. The midden deposits are characterized by charcoal flecks, quantities of baked and vitrified clay, fire affected rock, various shellfish remains (especially *Cerithidea californica*), faunal remains, and various chipped and ground stone artifacts.

27. For example, the majority of the sites in north San Jose are found along the Guadalupe River. Most of the sites in the area are capped by native sterile overburden varying from 0.3 to 1.57 meters in depth and were generally exposed during utility trenching and other subsurface construction (Basin Research Associates 1997).

28. Surface indications of prehistoric sites in the area are often the result of disturbance by historic activities that have exposed the buried cultural materials.

4.4A Local Sensitivity

The *Cultural Resources Review for the City of San Jose 2020 General Plan Update* (Garaventa and Guedon 1993) shows Reach 0 and a portion of Reach 5 as not within a sensitive zone while a portion of Reaches 5 and Reaches 6 to 9 within areas of sensitivity for archaeological resources.

5.0 PRE-FIELD IDENTIFICATION EFFORTS

A prehistoric and historic sites records search was completed by the California Historical Resources Information System, Northwest Information Center at California State University (CSU), Sonoma, Rohnert Park (CHRIS/NWIC File No. 08-0825 dated February 25, 2009 by Hagel). In addition, reference material from the Bancroft Library, University of California, Berkeley and Basin Research Associates, San Leandro was also consulted.

The *Historic Properties Directory* for Santa Clara County (CAL/OHP 2008a) available from the CHRIS/NWIC provides the most recent updates of historic property evaluations including the National Register of Historic Places, California Historical Landmarks, and California Points of Historical Interest reviewed by the State of California Office of Historic Preservation (OHP). Other sources consulted include: the *California History Plan* (CAL/OHP 1973); *California Inventory of Historic Resources* (CAL/OHP 1976); *Five Views: An Ethnic Sites Survey for California* (CAL/OHP 1988); *Archeological Determinations of Eligibility* (CAL/OHP 2008b) *Historic Civil Engineering Landmarks of San Francisco and Northern California* (American Society of Civil Engineers 1977); and, other local and regional surveys/inventories and lists (see REFERENCES CITED AND CONSULTED).

In addition, Mr. Stuart A. Guedon (M.A., Historical Geographer and Archaeologist), Basin Research Associates, secured copies of relevant 1850s maps and text regarding the locations of the Berryessa dwelling sites on January 2, 2009 at the Office of the Santa Clara County Surveyor.

Thirty-one (31) compliance reports on file with the CHRIS/NWIC include the project reaches. The CHRIS/NWIC records search was positive for recorded archaeological sites and reported cultural resources²⁹ located in and/or adjacent to the proposed project and within 0.25 miles of Reaches 1-9 and Bypass Alternatives 1 and 2. Three prehistoric sites and one reported cultural resource are mapped by the CHRIS/NWIC in/adjacent to Reaches 1-9 and one recorded Native American reburial location is mapped within 0.25 miles of the APE.

29. Reported Cultural Resources are assigned C-# by the CHRIS/NWIC.

5.1 RECORDS SEARCH RESULTS

5.1A Compliance Reports

Thirty-one (31) compliance reports include the project reaches. Three reports, all negative, include areas adjacent to the project reaches (see Attachments for CHRIS/NWIC mapping of reports).

*Proposed Berryessa Creek Channel Improvements*³⁰

Holman 1975/S-4769; Reaches 0-9

Cartier 1980/S-5304; part Reach 5

Cartier 2002/S-26216; part Reach 1

Burial recovery - Cartier et al. 1986/S-8115; part Reach 3³¹

Rosenthal 2008/S-34869;³² Reach 3/4

Channel Monitoring Reports

Pacific Legacy 2005/S-29682, Reach 7/8

Berryessa Creek Park

Steiner and Quick 1986/S-8270, part Reach 7

Parcels Adjacent/including Berryessa Creek

ACRS [Dietz and Wilson] 1987/S-4296, Reaches 1, 2, most Reach 3

Holman 1978/S-4570, part Reach 9

Old Piedmont/Brancato parcel - Holman 1980a/S-5274, Anastasio 1987/S-9192,
Harmon and Anastasio 1989/S-10880, Cartier 2003/S-27082, Reach 9

Lincoln parcel - Cartier 1983/S-6164 with testing Cartier 1983/S-6165, part
Reach 3 parcels adjacent to the triangular San Jose Water District

"Cropley Pump Station" - Holman 1974/S-4377, part Reach 7, and Bypass
Alternatives 1 and 2; Holman 1984/S-6697, part Reach 6; Cartier 1981/S-
8415, part Reach 6

City Infrastructure

Storm drain - Busby and Garaventa 1982/S-11214, part Reach 7 with Addendum
Garaventa and Ogrey 1983/S-16899, part Reach 7

Proposed Gibraltar Drive overcrossing - Cartier 1993/S-15929 with testing Cartier
1994/S-15947, Reach 3

30. Note Hylkema (2004) not on file at the CHRIS/NWIC cited in Pacific Legacy 2005/S-29682; assume at least Reach 7/8.

31. Three other Burial reports not on file: Cartier and San Filippo (1987, 1988) and Cartier et al. (1986).

32. Part relocation of railroad tracks not in the vicinity of Reaches 1-3.

Montague Expressway Improvement - HPSR - Basin Research Associates 1999/S-23356), ASR - Basin Research Associates 1999/S-23357, and HASR - Hill 1999/S-23358, Reach 3/4

South Bay Water Recycling Program

Cartier 1992/S-14230, Reaches 1-3 and part 4

Treatment Plan - Busby et al. 1996/S-19072, part Reach 3

Monitoring Closure Report - Busby 1999/S-23080, part Reach 3 [as mapped]

Additional Inventory - Busby 1999/S-23105, part Reaches 2-3; Busby 2000/S-23382, crosses Reach 3

City of San Jose General Plan Review

Garaventa and Guedon 1993/S-S-15228; all Reaches

S-4296 ACRS (Dietz and Wilson 1987)

The *Report of the Archaeological Reconnaissance of the Proposed South Bay Industrial Center, Santa Clara County, California* (ACRS [Dietz and Wilson] 1987/S-4296) provides sections entitled Project Location, Project Description, Previous Archaeological and Historical Research (including the results of a negative records search), Investigation Method, and Investigation Results, Project Impacts Upon Archeological Resources [Direct] and Indirect Impacts Upon Archeological Resources, and Mitigation and Recommendations. The field survey reviewed both banks of Reaches 1, 2, and most of Reach 3 to north of a substation (north of Landess Avenue) including the entire creek bed and side surfaces, estimated as to a depth of approximately 10 feet in some areas. A midden deposit with fire cracked rock (FCR) and *Ostrea lurida* and *Cerithidea* shell were observed within an area of approximately 20 x 20 meter area on the west side of Berryessa Creek in the creek and access road right-of-way west to approximately 10 meters east of the Western Pacific tracks. "Little color change" was observed between the site (FCR and shell) and the surrounding light grey soil.³³ A large portion of the deposit appeared to have been destroyed by the channelization of Berryessa Creek. [The CHRIS/NWIC later assigned this site, ACRS Temporary #74.8.06/1, C-167. It is possible that this resource or a portion of this site was later recorded as CA-SCI-593 (P-43-000588) (Stradford and Cartier 1986/form). CHRIS/NWIC maps C-167 and CA-SCI-593 as separate sites].

S-4377 Holman 1974

The letter report regarding an archaeological site reconnaissance, *lands of Starlite Homes*, San Jose, California (Holman 1974/S-4377) involves a 16.1 acre project parcel situated adjacent to north side of Berryessa Creek, part of Reach 7 and the south side of Cropley Avenue including part of Bypass Alternatives 1 and 2. Most

33. A Cropley clay loam, 1 to 3 percent slopes (Cv), a dark grayish-brown moderately friable, noncalcareous, neutral clay loam surface soil to depths of 14 to 23 inches (USDA/SCS 1958:75).

of the far western part of Bypass Alternative 2 crosses this project parcel. Maps and records at the Treganza Museum were consulted prior to conducting a survey. The results were negative for recorded archaeological sites and "indicated" that a 10-foot corridor adjacent to the creek had been surveyed previously [citation not provided]. Survey results were negative.

S-4570 Holman 1978

The letter report regarding an archaeological reconnaissance of the proposed *Lands of Lo Bue* (Holman 1978/S-4570), approximately 30 acre parcel east side of Old Piedmont Road (part Reach 9), northeast San Jose includes a records search and field survey identified CA-SCI-156 (P-43-000168) to south of project along Old Piedmont Road and Copley Road. The partial survey of project area concentrated on level ground on western edge of project; northern edge of property which apparently had been quarried in recent years; and, "detailed inspection" of rock outcroppings along creek bed and banks. "No evidence of grinding holes or pecked or painted art were found along or next to the creek. Neither was there any evidence of archaeological remains found in the flat area on the western edge of the project area, nor do I fee that any will be found in a buried state at a later date."

S-4769 Holman 1975

The letter report regarding a *proposed Berryessa Creek channel improvement* from the confluence with Lower Penitencia Creek near North Main Street (Reach 0) to Old Piedmont Road (Reach 9) (Holman 1975/S-4769). The proposed improvements to the creek channel were described as "*an expansion of the present right of way as much as 80 feet at the beginning of the project, relocation of the channel in a portion of the project area, the construction of new earth levees and accompanying access roads and protective chain link fences and, I would assume, the re-grading of the trapezoidal channel itself.*" This creek was one of many surveyed in summer 1973 for the County [Santa Clara Valley Water District] with relevant pages of a Woodward-Clyde (1975) report attached [summarized below]. The maps and records were consulted at the Treganza Museum and data in the possession of Mr. and Mrs. Chester King found no additional information. The survey involved the area of direct impact and a sample of open space within the "100 year flood plain." A survey corridor of 100 feet on either side of the proposed channel from Calaveras Road to the Old Piedmont Road. Only "small sections" could be surveyed due to roads and buildings. The "100 year flood plain" survey includes open space around the existing creek channel excluded Reaches 1-3 between Calaveras Road and Landess Avenue were not surveyed due to high thick grasses; the remainder appears to have been surveyed, relying on 100-foot transect intervals. No sites were observed. Soil is described "*a uniform color and consistency, and except for one small areacompletely devoid of (or nearly so) the usual amounts of rock, both chert and other kinds, found on the surface around the Santa Clara Valley.*" Portions of Woodward-Clyde Consultants (1975) report are attached: an EIS cover page, selected Figures 6, 11, 20, 21 [Figures 20-21 include Jacklin Road to east of Old Piedmont Road], and History and Archaeology

text regarding the absence of significant historic sites, sources (National Register of Historic Places, California Historic Preservation Officer, and the Santa Clara Historical Heritage Commission), the results of the archaeological survey conducted, and discussion of project impacts, and "precautions" (mitigation section).³⁴ The survey involved *"A thorough survey of the entire modified channel alignment of Berryessa Creek, as proposed by the District, revealed no significant relics and a sampling of the 100-year flood plain of the creek downstream of the point 1500 feet above Old Piedmont Road [Reach 9] resulted in no archaeological finds, either."*

S-5274 Holman 1980

This report regarding the *Old Piedmont Property* (Holman 1980/S-5274), an approximately 40-acre parcel northeast side of Old Piedmont Road at the junction of Old Piedmont and Cropley Road, includes Reach 9. The records search and field survey of this parcel identified CA-SCI-156 (P-43-000168) on the southwest corner of Old Piedmont Road and Copley Road along the bank of Berryessa Creek and CA-SCI-157 (P-43-000169) within 0.25 miles of project. The field survey was negative but noted the surface of "all of the flat along the creek" is obscured by an old house and other structures.

S-5304 Cartier 1980

The *Archeological Evaluation of the Proposed Berryessa Creek Flood Control Project between Cropley Ave and Highway US 680* (Cartier 1980/S-5304) consists of an Abstract, Location and Description of the Subject Areas, Request for Archaeological Evaluation, Archaeological Survey, and Conclusions and Recommendations. The records search noted CA-SCI-156 and -157 (P-43-000168 and -000169) upstream of the project and field survey of 1900 foot long portion of Reach 5 between I-680 and Cropley Avenue was negative. This survey involved "four transects, one on each side of the creek bed examining each exposed bank, and one on each bank top." The "excellent" survey conditions - recent erosion along the creek bank - exposed a vertical soil profile of up to three meters showing mostly disturbed soil above the lower 3-feet/90-centimeters).

S-6164 Cartier 1983

The *Cultural Resource Evaluation of the Lands of Lincoln Property Company on Milpitas Blvd in the City of Milpitas, Santa Clara County, CA* (Cartier 1983/S-6164) involved a parcel situated between Milpitas Boulevard and Pieper Drive³⁵ and north of Landess Avenue within Reach 3 just south of PG&E Substation. This report provides an Abstract, Location and Description of the Subject Area, Request

34. Pages 3-77, 4-12, 5-6, 6-7. Page 3-77 refers to Appendix 9 responses by the California Historic Preservation Officer and the Santa Clara Historical Heritage Commission and to Appendix 10, the archaeological survey by Holman. These appendices are not attached.

35. No longer extant. Pieper Drive was on the east side of and parallel to the railroad tracks.

for Archaeological Evaluation, Archaeological Survey, and Conclusion [sic] and Recommendations. The records search identified "*An unrecorded prehistoric site*" "*just off the northeast corner of the project. The site, located on the west side of Berryessa Creek, between Milpitas Blvd and the Western Pacific Railroad alignment, was destroyed during the channelization of Berryessa Creek. At the time of discovery, the remains of the midden were evident on the levees of the creek channel and consisted of fire-cracked rock and shell. Some shell scatter was also noted east of the levee (A.C.R.S., n.d.)*" [conforms to ACRS 1987/S-4296, Temporary site #74.8.06/1, CHRIS/NWIC C-167]. The survey was negative, "The entire parcel was covered with parking lot surface or structure." Testing or archaeological monitoring was recommended.

S-6165 Cartier 1983

The *Subsurface Archeological Testing of the Lands of Lincoln Property Company on Milpitas Blvd in the City of Milpitas, Santa Clara County, CA* (Cartier 1983/S-6165) was preceded by a *Cultural Resource Evaluation*³⁶ for a 13 acre parcel located between Milpitas Boulevard and Pieper Drive which recommended testing or archaeological monitoring which identified "*An unrecorded prehistoric site*" "*just off the northeast corner of the project. The site, located on the west side of Berryessa Creek, between Milpitas Blvd and the Western Pacific Railroad alignment, was destroyed during the channelization of Berryessa Creek. At the time of discovery, the remains of the midden were evident on the levees of the creek channel and consisted of fire-cracked rock and shell. Some shell scatter was also noted east of the levee (A.C.R.S., n.d.)*" [citation also in Cartier 1983/S-6164].³⁷ The testing report includes an Abstract, Location and Description of the Subject Area, Request for Archaeological Evaluation followed by Archival Background and Testing, Conclusion [sic] and Recommendations. The survey of project parcel was negative, likely because the surface was capped "in oiled and screened gravel and hardtop parking surfaces" (:1). The 13 trenches and 9 auger borings were negative. The thirteen (13) trenches varied from 100 to 310 cm in depth; the 9 four-inch auger borings from 40 to 130 cm. Some natural Franciscan chert gravel and cobbles were observed in Auger #1 near Milpitas Boulevard between 0-40 cm DBS.

S-6697 Holman 1984

The letter report for *Cropley Avenue Property, San Jose* (Holman 1984/S-6697) involves a less-than 10-acre triangularly shaped parcel situated on the north side of Berryessa Creek Reach 6 on the north side of west end Bypass Alternative 2 and south side of Bypass Alternative 1. The records search was negative in/adjacent to the project and noted CA-SCI-156 and -157 recorded upstream (P-43-000168 and -000169). Two previous negative surveys had included part of the proposed project:

36. Not cited: Cartier et al. 1983/S-6164.

37. Archaeological Consulting Services n.d. appears to conform to: ACRS 1987/S-4296, ACRS Temporary #74.8.06/1, CHRIS/NWIC C-167.

Holman and Cartier [not cited in report: Holman 1974/S-4377; Cartier 1981/S-8415]. In addition to lush weeds, probable fill material was observed near Cropley. No artifacts were observed within the "light brown to gray clays mixed with large amounts of rock, including water worn chert cobbles, fist sized and under, many of which were of artifactual quality."

S-8115 Cartier et al. 1986

The *Burial Recovery at Berryessa Creek in the City of Milpitas, County of Santa Clara* (Cartier et al. 1986/S-8115) within Reach 3 provides the circumstance of the discovery human remains during a field reconnaissance by the U.S. Army Corps of Engineers and the salvage of a human burial and associated prehistoric deposit at the Berryessa Creek Site, CA-SCI-593. The report describes personnel involved (archaeologists, osteologist, and Native American) and includes a research framework, field procedures, faunal and lithic descriptions/analysis, unit/level records, radiocarbon analysis (including Beta Analytic Inc. data sheet), and osteological material from Burial 1 [only]. See the description of CA-SCI-593 (P-43-000588) for additional detail.³⁸

S-8270 Steiner and Quick 1986

An Archeological Assessment of Berryessa Creek Park, City of San Jose, Santa Clara County, California (Steiner and Quick 1986/S-8270) was undertaken for proposed modifications to existing Berryessa Creek Park situated in part of Reach 7. At the time, was bounded by Berryessa Creek on the north, Messina Drive on the west, Isadora Drive on the south, and Majestic Elementary School on the east. The report provides a brief Historic Setting, Ethnographic Setting, a summary of the Records Search, results of the archaeology survey, and conclusions and recommendations. Two recorded prehistoric sites, a lithic scatter and an isolated possible stone tool were identified along Berryessa Creek approximately 0.25 and 0.5 mile upstream from the Park project [assume CA-SCI-156 (P-43-000168) and SCI-157 (P-43-000169)]. The "Thorough inspection of the site, with particular attention to the creek channel and its banks" was negative. "However, it was apparent that development of the present park, including the construction of the berm alongside the creek and turf installation, has altered or obscured most of the original ground surface."

S-8415 Cartier 1981

The *Cultural Resource Evaluation of the Day Saints Project in the City of San Jose, County of Santa Clara* (Cartier 1981/S-8415) is located on the south side of Cropley Road on the east side of Morrill Road adjacent to the north bank of

38. Cartier and San Filippo (1987) presented a paper at the Society for California Archaeological (SCA) meetings in 1987 and published their paper in 1988. The 1988 paper includes the disinterment of a second burial eroding from the west bank of the creek. See the description of CA-SCI-593 (P-43-000588) for additional detail.

Berryessa Creek Reach 6 and west side of the triangular San Jose Waterworks parcel adjacent to north side of west end Bypass Alternative 2 and south side of Bypass Alternative 1 to Morrill Avenue. Portions of this parcel include the entire Holman 1974/S-4377 and part of the Holman 1984/S-6697 parcel. The Cartier report includes an Abstract, Location and Description of the Subject Area, Request for Archaeological Evaluation, Archaeological Survey, and Conclusions and Recommendations. The records search and survey were negative. CA-SCI-156 and -157 were identified east of the project. The surface "soil consisted of tan sandy loam with gravel. The rock consisted of sandstone and natural chert."

S-9192 and S-10880 Anastasio 1987 and Harmon and Anastasio 1989

A Cultural Resources Assessment of the Lands of Brancato on Old Piedmont Road, Santa Clara County, California (Harmon and Anastasio 1989/S-10880) relies on the text and management recommendations of the earlier Anastasio (1987/S-9192) report with an updated records search for a parcel situated within Reach 9, "bounded on the west by Old Piedmont Road, on the north by San Jose city line, on the east by Berryessa Creek, and on the south by various properties." This parcel is approximately the same as Holman (1980/S-5274). The report provides a project location and description, Background (Native American and Historic Period), Archaeological Field Survey, Summary and Conclusions, and Management Recommendations. The report maps CA-SCI-156 at about midpoint along the western edge of the project [e.g., Reach 8 and east end of Bypass Alternatives 1 and 2] and CA-SCI-157 further west along Cropley Road [Bypass Alternatives 1 and 2]. In addition "four [Berryessa family] palizadas" were identified ... in a row 'along the south bank of Berryessa Creek just west of the Old Piedmont Road (Hendry and Bowman 1940:862)'.³⁹ The field survey results were negative for prehistoric and/or "clearly historic archaeological material and/or existing or potential heritage trees in/adjacent to the Berryessa Creek APE. An existing residential complex at 2052 Old Piedmont Road was present in the northwestern corner of the parcel (northwest of the Reach 9) with "remnants of a small wooden building, consisting of a few standing posts and a jumble of boards" were observed "at the southern edge of the parcel near Berryessa Creek." Subsurface testing was not recommended. Archaeological monitoring was recommended due five factors, four of which are applicable to the Berryessa Creek APE: the presence of prehistoric archaeological site [CA-SCI-156] adjacent/possible within the proposed project; "the possibility of encountering isolated Hispanic Period material associated with the Berryessa *palizadas*"; "the potential sensitivity of the geomorphic location in the Los Buellis Hills between two sources of water [Berryessa and Sweigert Creeks]; and, "limited ground surface visibility, which may have obscured more definite cultural indicators". See also the update of this report by Harmon and Anastasio (1989/S-10880).

39. Hendry and Bowman (1940:862-863, H&B #18-21), Four Berryessa Palizada Dwelling Sites, dating to the early 1830s (prior to 1833). See report text under subheading *Potential Hispanic Era Resources*.

S-11214 Busby and Garaventa 1982

A Cultural Resources Assessment of Five Storm Drains, City of San Jose, California (Busby and Garaventa 1982/S-11214) reviews five Locations, Research Sources Consulted, archival results, a brief historic overview with attention to each of the five locations, summaries of prehistoric and historic resources, and Summary/management Recommendations. A field reconnaissance of the five projects was not undertaken due to the presence of paving and/or concrete. Location Sierra Creek No. 3, situated within the existing creek channel of Berryessa Creek (part Reach 7), was to be extended ca. 500 feet west of the former boundary of Berryessa Creek Park (west of Messina Drive) by extending the existing creek channel about 5-10 feet deeper "ca. 400 feet of pipe placed east of the ditch along Melchester Drive." Two sites, CA-SCI-156 and SCI-157 were identified and mapped within 0.25s and 0.76 miles of the Sierra Creek No. 3 location. A high sensitivity/potential for possible cultural resources was identified. Intensive archaeological monitoring was recommended. See also *Addendum* (Garaventa and Ogrey 1983/S-16899).

S-14230 Cartier 1992

The *Evaluation of Archaeological Resource for the San Jose/Santa Clara Nonpotable Water Reclamation Project* (Cartier 1992/S-14230) is bounded on the east by I-680 and includes most of the City of Milpitas Reaches 1-3, and part Reach 4 as well as Cities of San Jose and Santa Clara. This report provides Environmental Background and Ethnographic Background, the results of an Archival Background including Description of Archaeological Sites Which May be Impacted, including CA-SCI-593 (P-43-000588) and C-167 in the Reclamation Project East Zone and the results of a Surface Reconnaissance which noted "Exposed dark brown silty midden was visible in the creek bank" just north of Montague Expressway which appears to conform to CA-SCI-593 [:22 site number not stated]. The Recorded Sites in the Field Survey Alignments (:27) reviews both CA-SCI-593 and C-167. CA-SCI-593 surface visibility was "hampered by fill and gravel" with very good visibility along the creek "with little vegetation and exposed midden. Milpitas Boulevard, channelized Berryessa creek, and railroad tracks "intersect the site"; a modified Franciscan chert flake and cobbles, fire-cracked rock, *Cerithidea* and oyster shell fragments, and mammal bones (possibly human) were observed along the creek bank. C-167 was covered by an industrial building and parking lot with poor visibility due to the parking lot and landscaping. No cultural material was observed. The Conclusions and Mitigations :29 concluded that CA-SCI-593 would be impacted on the west side by a 12-inch pipeline and recommended final design review, archaeological monitoring, and salvage recovery. C-167 would be impacted on the east side by a 12-inch pipeline. Recommendations for C-167 were limited to final design review and archaeological monitoring.

S-15228 Garaventa and Guedon 1993

Cultural Resources Review for the City of San Jose 2020 General Plan Update (Garaventa and Guedon 1993/S-15228) shows part of Reaches 5 to Reach 9 on the 1980 USGS Calaveras Reservoir, Calif. topographic quadrangle within an area of sensitivity for archaeological resources. The APE for Reach 0 to a portion of Reach 5 is not shown as sensitive for archaeological resources.

S-15929 Cartier 1993

The *Cultural Resource Evaluation of the Milpitas Boulevard Overcrossing Project Located in the City of Milpitas, County of Santa Clara* (Cartier 1993/S-15929) involves a proposed overcrossing over Berryessa Creek just east of Milpitas Boulevard on Gibraltar Drive⁴⁰ within Reach 3. This report provides an Abstract, Request for Archaeological Evaluation, Qualifications of Archaeological Resource Management, Location and Description of the Subject Area, Methodology (archival search, surface reconnaissance, and written report), Archival Background, Surface Reconnaissance, and Conclusions and Recommendations. "Small amounts of prehistoric cultural materials were found within the subject area; probably relating to CA-SCI-593" which is characterized as a "large midden deposit with burials" identified next to the project and relocated 100 yards upstream from the proposed project. The overcrossing area finds consisted of small amounts of prehistoric cultural material (fire-cracked rock and *Cerithidia* shell). Cartier states that "CA-SCI-593, or the Berryessa Site, was first detected by Deetz [*sic*] (Dietz and Wilson) (C-167), later recorded by Stradford and Cartier (1986), and subject to a salvage excavation of human burial (female, 18-20 years of age, radiocarbon date of 1660 ± 80 B.P.) and associated prehistoric deposit as a result of a field reconnaissance by the U.S. Army Corps of Engineers. Nonetheless, the site is mapped south of the proposed project [Note: as mapped by the CHRIS/NWIC, the project appears to include part of C-167 (e.g., CHRIS/NWIC File No. 08-0825)]. Recommendations consisted of one hand excavated unit and eight (8) auger units to define the prehistoric deposit along with archaeological monitoring during construction.

S-15947 Cartier 1994

The report for the *Archaeological Testing Milpitas Boulevard Overcrossing Project Located in the City of Milpitas, County of Santa Clara* (Cartier 1994/S-15947) incorporates some of the information in his *Cultural Resource Evaluation* (Cartier 1993/S-15929) and also includes Environmental Setting, Ethnographic Background, Archival Background, Field Method, Testing Results, and Conclusions And Recommendations. One 1 x 1 meter hand excavated unit was located on the east side of Berryessa Creek within the proposed bridge footprint. Eight auger units were dispersed, four on each side of the creek and north/south of the proposed bridge. The 1 x 1 meter unit exposed a dark brown silty loam changing to a medium brown sterile soil at approximately 90 cm with shell (marine

40. This overcrossing was not built; Gibraltar Drive terminates on the west side of Milpitas Boulevard.

and land), fire-cracked rock, bone, debitage, baked clay, and historic metals (2; wire in 0-20 cm and an expended cartridge in 40-60 cm). A single Franciscan chert thinning flake was recovered from 20-40 cm. Shell was found from Level 0-20 cm to 80-100 cm and rodent bone at 0-20 cm, 40-60 cm and a small mammal vertebrae at 60-80 cm. No cultural material was present in Auger Units 1-4 on the west side of the creek or Unit 8 on the east side of the creek. A single *Cerithidea* shell was recovered from Unit 5 at 20 cm, and Units 6-7 at 40 cm on the east side of the creek. These finds were interpreted as a "related to" CA-SCI-593.

S-16899 Garaventa and Ogrey 1983

The *Addendum* (Garaventa and Ogrey 1983/S-16899) to *A Cultural Resources Assessment of Five Storm Drains, City of San Jose, California* (Busby and Garaventa 1982/S-11214) reviews the placement of a proposed replacement of a pedestrian bridge (footings), sidewalks, and cul-de-sac street improvement necessitated by the construction of the proposed bridge over Messina Drive within Reach 7. The recommendations in the 1982 report were deemed appropriate.

S-19072 Busby et al. 1996

The *Historic Properties Treatment Plan South Bay Water Recycling Program* (Busby et al. 1996/S-19072) in the Cities of Milpitas, San Jose, and Santa Clara provides a Summary Of Previous Work in the Project Area, an Historic Properties Review (Recorded and Non-recorded sites, and Impacts to Potential National Register Properties), an Archaeological Data Recovery Plan (ADRP), Field Methods and Analytical Strategies, Effect to Historic Properties with an Historic Property Monitoring and Protection Plan (HPMPP), Monitoring and Historic Property(ies) Protection Plan (MHPPP), Reports and Dissemination of Results, and Curation. This extensive pipeline project includes part of Reach 3.

The *Monitoring Closure Report* regarding the *South Bay Water Recycling Program - Cultural Resources Program* (Busby 1999/S-23080) noted no resources in or near the portion of the extensive pipeline project which included part of Reach 3.

S-23105 Busby 1999

This report regarding *Historic Properties Affected or Potentially Affected by the South Bay Water Recycling Program "Package 1" Segments SC 1, SC 3, SC 5, M 2, M 3, M 4, M 5 and SJ/C 1, Cities of Milpitas, San Jose, Santa Clara, and Sunnyvale, Santa Clara County* (Busby 1999/S-23105) includes portions of Reaches 2-3 and provides Research Sources Consulted, Project Specific Reports and Program Activities, Significance Criteria, Historic Properties Identified (Native American, Ethnographic, Hispanic Era, American Period), Summary of Historic Properties In/Adjacent/Near by segment, and Recommendations. This report includes part of Reaches 2-3 with C-167 and CA-SCI-593 (P-43-000588) identified as south of Segment M 4, "[Milpitas] Town Center", south of the pipeline which

would proceed along Milpitas Boulevard and Gibraltar Avenue to the west side of Berryessa Creek, Reach 3.

S-23356, S-23357, and S-23358 Basin Research Associates 1999

The *Historic Property Survey Report* [HPSR] (Basin Research Associates 1999/S-23356), *Archaeological Survey Report* [ASR] (*Positive*) (Basin Research Associates 1999/S-23357), and *Historic Architectural Survey Report* [HASR] (*Abbreviated*) (Hill 1999/S-23358) for the *Montague Expressway Improvement Project, Cities of Santa Clara, San Jose, and Milpitas, Santa Clara County, California* cross Reaches 3 and 4 along the Montague Expressway. The HPSR contains Summary of Findings, Project Location and Description, Resume of Survey, Public Participation and Coordination, Resources Identified, Documentation to Support Conclusion of No Effect, Informal Agency View, and Conclusions. The ASR provides An Introduction and Summary of Findings, Project Location and Description, Research Sources Consulted and Results, Background Review, Field Methods and Survey, Findings, and Conclusions. The HASR is limited to a Summary of Findings. No historic properties were identified within the Archaeological or Architectural Areas of Potential Effect in or adjacent to Reaches 3 and 4. Berryessa Creek Bridge No. 37C-127 was built in 1968 and evaluated as a Category "5," not eligible for the National Register of Historic Places.

S-23382 Basin Research Associates 2000

The *Cultural Resources Assessment (Positive) Historic Properties Affected or Potentially Affected by the South Bay Water Recycling Program Phase 2 Facilities Modifications to Existing Projects SJ-1, SJ-2, SC-5, M-1 and New Segments SJ-3, SJ-4, SJ-5, SJ-6, SJ-7, M-2, M-5, Cities of San Jose and Milpitas, Santa Clara County* (Basin Research Associates 2000/S-23382) provides Previous South Bay Water Recycling Program Reports, Research Sources Consulted, Historic and Archaeological Resources - Summary Context (Native American, Hispanic Period, American Period), Summary of Historic Properties In/Adjacent/Near by segment, Evaluation of Environmental Impacts to Historic and Archaeological Resources, and Segment Recommendations. No recorded or reported sites were identified in/adjacent to Segment M-1 Eastern Milpitas which crosses Reach 3/Berryessa Creek along Yosemite Drive.

S-26216 Cartier 2002

The *Cultural Resource Evaluation of the Berryessa Creek Levee Project in the City of Milpitas, County of Santa Clara* (Cartier 2002/S-26216) reviews a 1.7 mile portion of Berryessa Creek, mostly Reach 0, from the south side of Calaveras Boulevard north (Reach 1). The report includes an Abstract, Request for Archaeological Evaluation, Qualifications of Archaeological Resource Management, Location and Description of the Subject Area, Methodology (California Register Criteria, National Register Criteria), Ethnographic

Background, Historical Background, Archival Background, Surface Reconnaissance, and Conclusions and Recommendations. The segment including Calaveras Boulevard and northern extent of Reach 1 to North Hillview Drive is described as less than 1000 feet long and approximately 160 feet wide with a single levee and road on each side of the creek channel. Results were negative.

S-27082 Cartier 2003

The *Cultural Resource Evaluation of Lands of Brancato on Old Piedmont Road, City of San Jose* (Cartier 2003/S-27082) reviews an approximately 4.5 acre project located in Reach 9 on the east side of Old Piedmont Road which differs slightly from the configuration reviewed previously by Holman (1980/S-5274), Anastasio (1987/S-9192), and Harmon and Anastasio (1989/S-10880). This report provides an Abstract, Request for Archaeological Evaluation, Qualifications of Archaeological Resource Management, Location and Description of the Subject Area, Methodology Archival Background, Surface Reconnaissance, and Conclusions and Recommendations. CA-SCI-156, a "flake scatter" was identified as across Piedmont Road. The survey was negative for prehistoric resources with a ca. 1920-1930 Spanish Revival style residences and other structures dating between 1920-1960 present. A trench east and south of Berryessa Creek was examined revealing an upper layer of dark clay rick loam with lower layers of orange-brown clay with streaks or calcium carbonate. Rock included sandstone and conglomerate and igneous rock in gravels, cobbles, and bedrock.

S-29682 Pacific Legacy 2005

The *Archaeological Monitoring Report for the 2004 Santa Clara Valley Stream Maintenance Project* (Pacific Legacy 2005/S-29682) for the Santa Clara Valley Water District (SCVWD) identified Berryessa Creek at Piedmont Avenue, the interface of Reaches 7/8, as a potentially archaeological sensitive location. The report provides a Management Summary, Introduction, Project Description, Monitoring Results, and Conclusions which were negative. In the case of Berryessa Creek at Piedmont Avenue, large quantities of colluvial sediment during winter "must be removed periodically to minimize the possibility of flooding" (Jae Lee, SCVWD). The August 4-5, 2004 monitoring had been recommended due to the proximity of CA-SCI-159 [sic] (P-43-000171) and CA-SCI-156 (P-43-000168). In addition, a disarticulated Native American long bone had been reported within the sediments during previous excavations in the general area (Jae Lee, SCVWD).⁴¹ Impacts consisted of the removal of part of the creek bank for equipment access and the excavation and removal of soils within the creek bed. A bulldozer removed approximately 4-5 feet of sediment in increments of 10-12 inches until the original creek bed was exposed. Trucks were used to haul the soils excavated off site. The top layer (approximately 12 inches deep) "consisted of

41. Probably the P-43-001136 find which was reburied on the east side of Berreyesa Creek opposite a residence at 3327 Park Haven Court (west of Piedmont Road).

small to medium size rocks mixed with light gray sand, roots, and some modern household refuse." The very homogeneous layer below was "a mass of light gray gravel, mixed with light brown sandy clay, light brownish gray sand, and very coarse granular structures." "Several faunal bones were found at 4 to 5 feet deep. In addition, several pieces of unmodified chert, brick fragments, small pieces of wood, and a handful of glass fragments were also noted."⁴²

S-34869 Rosenthal 2008

The *Archaeological Survey and Geoarchaeological Trenching for the Freight Railroad Relocation and Lower Berryessa Creek Project in the Cities of Fremont and Milpitas, California* (Rosenthal 2008/S-34869) includes a shared project between the Valley Transportation Agency and SCVWD located at the Reach 3 and 4 interface at Landess Avenue. This report was negative with "little potential to impact significant archaeological resources." The report provides a Summary of Findings, Introduction, Project Location and Description, Natural and Cultural Background, Records Searches and Archival Research, The Issue of Buried Archaeological Sites in the Santa Clara Valley, Native American Consultation, Field Inventory and Findings [limited to areas not previously surveyed], Geoarchaeological Exploration and Findings, Summary and Conclusions. Berryessa Creek is among the "watercourses" described as "contained in artificial channels and do not follow their historical alignments."

5.1B Sites and/or Reported Cultural Resources In/Adjacent

Three prehistoric sites and one reported cultural resource are mapped by the CHRIS/NWIC in/adjacent to Reaches 1-9 (see Attachments).

CA-SCI-156 (P-43-000168), a "flake scatter" - a single flake and two shells with some possible fire-affected rock; part of Reaches 7-8 (see Attachments, Form 1).

CA-SCI-157 (P-43-000169) an "open ? artifact [not described]; as mapped by the CHRIS/NWIC as adjacent to Bypass Alternatives 1 and 2, but as described. Comment: this artifact should have been recorded as an isolate rather than as a site (see Attachments, Form 2).

CA-SCI-593 (P-43-000588), a prehistoric site with Native American burials; Reach 3 (see Attachments, Form 3 + supplemental materials).

C-167, a Reported (but unrecorded) Cultural Resource, possible midden excavated from CA-SCI-593 (P-43-000588) and redeposited; Reach 3. Comment: Cartier (1993:3/S-15929), states that "CA-SCI-593, or the Berryessa Site, was first detected by Deetz [*sic*] (Dietz and Wilson) (C-167), who identified the site as a midden

42. This report cites Hylkema (2004) *Archaeological Survey Report [ASR] for the Proposed 2004 Stream Maintenance Program: Thirty-one Locations within Santa Clara County, California* which is not on file, L. Hagel, CHRIS/NWIC, personal communication, 2/27/2009).

deposit marked by fire cracked rock and shell scatter, and located on the west side of Berryessa Creek" (see Attachments, Card 1).

Site Summary

CA-SCI-156 (P-43-000168) is a "flake scatter" described as a single flake and two shells with some possible fire-affected rock recorded adjacent to Berryessa Creek at the junction of Old Piedmont and Cropley Roads (part of Reaches 7-8) (Bergthold 1974/form).

Comment: Cultural material could have been deposited/removed from this recorded archaeological site location by periodic flooding of Berryessa Creeks; the construction of Old Piedmont Road and/or Cropley Road; and/or, the existing residential complex and the San Jose Water Works tanks.

National Register Status: CA-SCI-156 (P-43-000168) does not appear on the *Archeological Determinations of Eligibility* list for Santa Clara County (CAL/OHP 2008b). In the opinion of Basin Research Associates, the site does not appear to satisfy National Register criteria, including integrity of location and/or (d) ". . . have yielded, or may be likely to yield, information important in prehistory or history."

CA-SCI-157 (P-43-000169) consists of an "open ? artifact found on fill material from [a] nearby tract house development 150 yards west of Berryessa Creek" located on an "open field near existing Cropley Road 1/3 mile southwest of Piedmont Road on exotic fill" (Anderson 1974/form). NOTE as mapped by the CHRIS/NWIC, this site is located adjacent to the south side of Cropley Road, Bypass Alternatives 1 and 2.

National Register Status: Not applicable; not listed on *Archeological Determinations of Eligibility* list for Santa Clara County (CAL/OHP 2008b). In the opinion of Basin Research Associates, the site - an isolate - does not appear to satisfy National Register criteria, including integrity of location and/or (d) ". . . have yielded, or may be likely to yield, information important in prehistory or history."

CA-SCI-593 (P-43-000588), a prehistoric deposit with human remains was observed in April 1986 eroding from the west bank of channelized Berryessa Creek, east of Milpitas Boulevard opposite the PG&E Substation in the City of Milpitas.⁴³ The U.S. Army Corps of Engineers (USCOE) contacted Santa Clara Valley Water District about the find. Archeological Resource Management (ARM) was engaged to investigate and excavate. As mapped, the site extended from just north of a driveway on the north side of a PG&E substation to about parallel with the southern of the substation building within Reach 3. The approximately 80 meter long x 60 meter wide deposit was visible within the creek bank, on the levee, both sides of Berryessa Creek and continued east approximately 40 meters east crossing a nearby

43. Opposite a PG&E Substation located at on the east side of Milpitas Boulevard north of the Montague Expressway and south of Ames Avenue.

railroad bed.⁴⁴ The partially exposed Burial #1 was located on east bank between 130-150 cm below surface within an area of 230 x 70 cm excavated in two levels: a disturbed overburden 0-50 cm (e.g., nail, plastic bottle cap) and an intact 50-70 cm level. The slightly larger area of 230 x 80 cm was excavated in five 20 cm levels to 150 cm deep. "all pedestal soil was wet screened in Berryessa Creek using 1/16 inch mesh". In addition a single test unit was excavated the following month (May) east of Burial #1, about midpoint between the creek and railroad tracks. Midden was noted to a depth of approximately 160 cm. deep with a "distinct gravel feature with alluvial soil ... in the creek embankment below the cultural deposit" (Cartier and San Filippo 1988).

Finds from CA-SCI-593 have been limited and consist of mostly fire cracked rock, with hearth features "suspected ... based on frequency of FCR" [fire-cracked rock]. Burial #1 consisted of semi-flexed partial skeleton of a young female, 18-20 years of age, facing east, oriented north-south, head north (Stradford and Cartier 1986/form). A left femur of a Southern sea otter (*Enhydra lutris*) was found during the survey conducted prior to during the disinterment of Burial #1. The vertebrate assemblage recovered with Burial #1 appeared to be an intrusive historic deposit although three bones were burnt with one fragment "highly polished with multiple sets of parallel striae" and likely part of a bone tool. The invertebrate fauna with Burial #1 consisted of mostly *Cerithidea* sp., with *Ostrea* sp. (27%) and Bent Nose clam (8%) along with crab claw fragments (1.6%) and likely historic era land snail shell (0.4%).⁴⁵ The lithic assemblage was limited to a single quartzite waste flake and Franciscan chert: 3 angular waste, 10 waste flakes, a utilized flake with edge-damage, a uniface - cortical flake with possible retouch for use as a drill, and a steeply retouched uniface, possibly a scraper. In addition to numerous sandstone cobbles and cobble fragments (mostly FCR), a small elongated pestle fragment and rough, basalt cobble fragment (possibly used as a mano) were recovered. Fire cracked rock was recovered from subsequent intact levels.

Burial #2,⁴⁶ the skeletal remains of young child of undetermined sex, was found in July 1986 eroding from the west bank of Berryessa Creek, north of Burial #1, at the bottom of the midden deposit. The screened midden had large amounts of shellfish (*Cerithidea*, oyster, bent-nose clam), a small amount of chert waste chips, and a broken charmstone.

Radiometric dates of 1320 ± 70 B.P.⁴⁷ and 1660 ± 80 B.P.⁴⁸ suggest that CA-SCI-593 was a habitation site dating to between 1300 B.P. - 1700 B.P., Late Phase of the

44. Note the site configuration and location on the site form (Stradford and Cartier 1986) differs from the "large dot" location on Fig. 2 of the 1988 SCA article by Cartier and San Filippo (1988:312) as well as the sketch map (USCOE 2006). The USGS map with the site form and sketch map indicate the site is located west of the transmission line and likely extends under Milpitas Boulevard.

45. The site form also notes mussel.

46. Burial position, orientation, etc. not provided.

47. 1320 ± 70 B.P.: 41 grams of *Cerithidea*, Beta-16577 Unit 2, 20-30 cm. [unit location unknown].

Middle Period. This relatively short occupation - approximately 340 years - is attributed to flooding causing river/creek realignment and settlement relocation (Stradford and Cartier 1986/form; Beta Analytic 1986a-b; Cartier et al. 1986/S-8115; Cartier and San Filippo 1987, 1988; USCOE 2006).

Alluvial deposits were observed below and possibly above CA-SCI-593 and at many prehistoric habitation sites in the vicinity of the Guadalupe River and Coyote Creek. Most of these sites date to the Middle Horizon, all contain human burials, and many are buried under alluvial deposits. Cartier and San Filippo (1988:311, 314) also note repeated abandonment and resettlement with a ". . . general pattern of settlement relocation at this time in the lower elevations of the valley." In addition, seasonal occupation - excluding winter - has been posited due to both flooding and poorly drained soils (e.g., Anastasio 1988).

Cartier (1993/S-15929) relocated CA-SCI-593 noting small amounts of prehistoric cultural material (fire-cracked rock and *Cerithidea* shell) 100 yards upstream from the proposed Milpitas Boulevard Overcrossing Project. Testing conducted north and south of Gibraltar Drive just east of Milpitas Boulevard on either side of the creek. In addition a 1994 survey and limited testing, one 1 x 1 meter hand excavated unit and eight (8) auger units, for a proposed overcrossing on Gibraltar Drive just east of Milpitas Boulevard found "traces of prehistoric cultural resources" on the east bank of the creek. These limited finds were attributed to CA-SCI-593 (Cartier 1994/S-15947).

A survey conducted in February 1992 by Cartier (1992:19/S-14230) relocated CA-SCI-593, described as impacted by Milpitas Boulevard, channelized Berryessa creek, and railroad tracks which "intersect the site." At the time, surface visibility was "hampered by fill and gravel" with very good visibility along the creek "with little vegetation and exposed midden. A modified Franciscan chert flake and cobbles, fire-cracked rock, *Cerithidea* and oyster shell fragments, and mammal bones (possibly human?) were observed along the creek bank.

Comment: Historic maps indicate that CA-SCI-593 (P-43-000588) was located about 0.6 miles north of Berryessa Creek on the eastern periphery of trees west of a marshy area (Day 1850-1851). Prior to the channelization of Reaches 1-3 between 1942 and 1961 (e.g., through CA-SCI-593), Berryessa Creek flowed into Penitencia Creek at about Capitol Expressway (US War Dept 1943; USGS 1961).

National Register Status: CA-SCI-593 (P-43-000588) is not listed on *Archeological Determinations of Eligibility* list for Santa Clara County (CAL/OHP 2008b). This site appears eligible for inclusion on the National Register of Historic Places under criterion d.

48. 1660 \pm 80 B.P.: 22 grams of *Cerithidea*, Beta-16147 Cat #102, 110-130 cm not burial unit, presumably intact midden.

C-167, a midden deposit which could be part of or from CA-SCI-593 (P-43-000588), was observed in 1987 northwest of CA-SCI-593 in the creek and access road right-of-way and approximately 10 meters east of the Western Pacific tracks [spur line] in Reach 3. Fire cracked rock (FCR) and *Ostrea lurida* and *Cerithidea* shell were noted within an approximately 20 x 20 meter area. In contrast to CA-SCI-593, little difference was observed in soils color - a light grey soil with the FCR and shell with the surrounding ambient soil⁴⁹ (ACRS) 1987/S-4296; Dietz and Wilson 1987/card). Evidence of C-167 was observed in the elevated access road along either side of Berryessa Creek which appear to have been constructed with soils excavated to form the existing creek channel. A large portion of the deposit appeared to have been destroyed by the channelization of Berryessa Creek.

Cartier (1992:19/S-14230) locates C-167 along Berryessa Creek at Milpitas Boulevard (op cit:27) and notes that C-167 was covered by an industrial building and parking lot with poor visibility due to the parking lot and landscaping. No cultural material was observed.

5.1C Sites and/or Reported Cultural Resources within 0.25 miles

One recorded Native American reburial location is mapped within 0.25 miles of the alignment.

P-43-001136, Berryessa Creek Reburial location (human femur); Reach 7 (see Attachments, Form 4).

Site Summary

P-43-001136, Berryessa Creek Reburial site - single human femur -is situated on property on the east side of Berryessa Creek Reach 7 owned by the Santa Clara Valley Water District (SCVWD), opposite a residence at 3327 Park Haven Court (east of Minto Drive and west of Piedmont Road). This single human femur appears to have been exposed during archaeological monitoring of construction by the Santa Clara Valley Water District on November 3, 1998 and re-interred [*sic*] on January 21, 1999. The 12-inch auger hole to a depth of 6 feet was placed 30 feet east of a double trunk oak tree and 48 feet northwest of a double 4x4 redwood fence post (Cartier and Kobza 1999/form).

The original location of the find is not stated on the P-43-001136 form. The Report of Archaeological Isolate indicates the femur was recovered during sediment removal from the middle of the Berryessa Creek channel between Calaveras Road and the aqueduct to the north. The Primary Record find date of November 3 disagrees with the Isolate report date of November 17, 1999 (Cartier 1998 attached to Cartier 2002/S-26216). In summary, the Native American femur appears to have been found in Reach 0 in early November 1998 and interred within the east side of

49. A Cropley clay loam, 1 to 3 percent slopes (Cv), a dark grayish-brown moderately friable, noncalcareous, neutral clay loam surface soil to depths of 14 to 23 inches (USDA/SCS 1958:75).

Reach 7 in January 1999 on property owned by the SCVWD north of Berryessa Creek Park on January 21, 1999.

5.1D Other Cultural, Traditional, and/or Contemporary Resources

The NAHC search was negative for Native American resources in or adjacent to the project APE (Pilas-Treadway 2009).⁵⁰

5.1E Listed Historic Properties

No known city, state and/or federal historically or architecturally significant structures, landmarks or points of interest have been identified in/adjacent to the AEP.

6.0 INDIVIDUALS, GROUP AND AGENCY PARTICIPATION

The Native American Heritage Commission (NAHC) was contacted for a search of the *Sacred Lands Inventory* (Busby 2009). The NAHC response was negative; the names of nine Native American individuals/organizations who may have knowledge of cultural resources in the project area were provided (Pilas-Treadway 2009). These individuals were not contacted⁵¹ (see Attachments).

No other local historical societies, planning departments, etc. were contacted regarding landmarks, potential historic sites or structures in or adjacent to the project.

7.0 ARCHAEOLOGICAL FIELD INVENTORY

7.1 PREVIOUS FIELDWORK

The entire Reach 1-9 alignment has not been previously surveyed in spite of the various proposed Berryessa Creek channel improvement projects as well as other projects crossing/in/including/adjacent to Berryessa Creek including the Montague Expressway Improvement Project, the South Bay Water Recycling Program , and Berryessa Creek Park. A number of the archaeological compliance reports refer to CA-SCI-156 (P-43-000168), CA-SCI-157 (P-43-000169), CA-SCI-593 (P-43-000588), and C-167.

Archaeological testing has been limited to the vicinity of C-167 and CA-SCI-593 (P-43-000588) in Reach 3 with negative results for a 13-acre parcel located between Milpitas

50. Negative in spite of human remains previously reported within prehistoric site CA-SCI-593 (P-43-000588) by Stradford and Cartier (1986/form).

51. Jakki Kehl, Patterson;
Valentin Lopez, Amah Mutsun Tribal Band, Sacramento;
Edward Ketchum, Amah Mutsun Tribal Band, Davis;
Irene Zwierlein, Amah/Mutsun Tribal Band, Woodside;
Jean-Marie Feyling, Amah/Mutsun Tribal Band, Redding;
Ann Marie Sayers, Indian Canyon Mutsun Band of Costanoan, Hollister;
Rosemary Cambra, Muwekma Ohlone Tribe of the SF Bay Area, Milpitas;
Andrew Galvan, The Ohlone Indian Tribe, Fremont; and,
Ramona Garibay, Trina Marine Ruano Family, Lathrop.

Boulevard and Pieper Drive just south of a PG&E substation (Cartier 1983/S-6165) and for a proposed overcrossing on Gibraltar Drive just east of Milpitas Boulevard (Cartier 1994/S-15947).

A human femur was exposed during archaeological monitoring of construction for the Santa Clara Valley Water District (SCVWD) in the middle of the Berryessa Creek channel between Calaveras Road and the aqueduct to the north (Reach 0) on November 3, 1998. This leg bone was reinterred on January 21, 1999 within SCVWD property on the side of east of Berryessa Creek opposite a residence at 3327 Park Haven Court (west of Piedmont Road) in Reach 7 (north of Berryessa Creek Park). This location has been recorded as P-43-001136 (Cartier and Kobza 1999/form).

7.2 PROJECT FIELD INVENTORY

A systematic archaeological field survey of Reaches 1-9 and Bypass Alternatives 1 and 2 was conducted by Mr. Christopher Canzonieri (M.A., Physical Anthropologist and Archaeologist), and Ms. Johanna E. Twigg (M.S., Archaeologist) on January 13-14, 2009. Mr. Canzonieri also field rechecked the vicinity of CA-SCI-156 (P-43-000168), a site recorded adjacent to the proposed project, on January 26, 2009. The Bypass Alternative 1 was limited to windshield survey along Cropley Avenue. Lacking access, Bypass Alternative 2 also included a limited viewing of the westernmost segment from Reach 6 to Cropley Avenue.

A supplemental field inventory of CA-SCI-156 (P-43-000588) was undertaken by Mr. Canzonieri on January 26, 2009.

In general, the project alignment is bordered by light industrial, commercial, and residential buildings, landscaping and paved areas along with a park, Berryessa Creek Park.

7.2A Survey Methodology

The pedestrian field survey included both sides of the creek bank and, when possible, the creek channel. The creek was dry in several areas allowing additional inspection of portions of the banks. Most survey transects were spaced 2-5 meters apart parallel to the creek. Portions of the creek are channelized with poured in-place concrete walls or Sackcrete slope protection present. Surface visibility ranged from 0-30% to 75-90%.

The width of the project alignment surveyed from the top of creek banks was constrained by existing built-environment features. As a result, the survey corridor varied from approximately 10 feet (3 meters) (e.g., Reach 4) due to fencing to as much as approximately 177 feet (54 meters) on the east side of the creek to the railroad (e.g., Reach 3 vicinity of CA-SCI-593 (P-43-000588)).

7.2B Reaches 1 to 9 [Figs. 6 to 50]

Reach 1 - Calaveras Boulevard to Los Coches Bridge [Figs. 6-10]

Mr. Canzonieri walked the west bank while Ms. Twigg was on the bank of Berryessa Creek proceeding north to south parallel to the creek. Survey transects were spaced 2-5 meters apart parallel to the creek. An approximately 25-45 foot wide gravel access road parallels each side of the creek. Surface visibility along the creek banks was poor less than 20% due to dense vegetation, mostly grasses. Water was present in creek at the time of the survey. A 12-inch corrugated steel pipe outfall encased in concrete with Sackcrete “sandbags” is present approximately 345 feet (105 meters) south of Calaveras Boulevard. A 24-inch corrugated steel pipe outfall encased in concrete and reinforced with Sackcrete and large granite boulders (rip-rap) are present along the east bank approximately 355 feet (108 meters) south of Calaveras Boulevard. In addition, remnants of a possible pedestrian/bike bridge foundation are present on both banks, approximately 377 feet (115 meters) south of Calaveras Boulevard. These foundations, approximately 5 feet long x 2 feet wide x 2 feet thick, have steel plates bolted to them which have been cut with a torch.

Note: East of the APE, Los Coches Creek flows through about the middle of a residential area bounded by Cameron Circle.

Reach 2 - Los Coches Bridge to Piedmont Creek [Figs. 6, 11-16]

Mr. Canzonieri walked the west bank while Ms. Twigg walked the east bank of the creek proceeding south. Survey transects were spaced 2-5 meters apart and extended as far as approximately 45 feet (13 meters) from the top of the east bank of Berryessa Creek to the railroad tracks. Surface visibility along the creek banks was poor, less than 20% due to dense vegetation, mostly grasses. Water was present in creek at the time of the survey. An approximately 25-50 foot wide gravel access road⁵² parallels each side of the creek. In addition, an approximately 560-foot long paved trail with landscaping is present immediately south of Los Coches Bridge along the east bank of the creek opposite a residential area (Cameron Circle). Three 24-inch outfall pipes are present along the east bank of the creek. The first pipe is located approximately 440 feet (134 meters) south of Los Coches Bridge. This 24-inch RCP pipe is encased in concrete and surrounded by large granitic rock (rip-rap). The second pipe is located approximately 567 feet (173 meters) south of Los Coches Bridge. This 24-inch corrugated steel pipe is encased in concrete and reinforced with Sackcrete. The third pipe is located approximately 1,600 feet (488 meters) south of Los Coches Bridge. This 24-inch corrugated steel pipe is encased in concrete and surrounded by large granitic rock (rip-rap). In addition to several sanitary sewer manholes along the east bank along the railroad right-of-way along/near the east side of the APE, there are metering wells on both sides of the creek.

52. The variation of 25 to 50 foot wide in Reach 2 is slightly wider than Reach 1 25 to 45 foot wide.

Reach 3 - Piedmont Creek to Montague Expressway [Figs. 6, 14-26]

Mr. Canzonieri walked the west bank, while Ms. Twigg walked the east bank. Survey transects were spaced 2-5 meters apart parallel to the creek and varied from approximately 56 feet (17 meters) to a maximum of 177 feet (54 meters) from Ames Avenue south to the Montague Expressway on the railroad/east side of the creek. An approximately 25-45 foot wide gravel access road parallels each side of the creek. Surface visibility along the creek banks from Piedmont Creek south to Ames Avenue was poor less than 20% due to dense vegetation, mostly grasses. Water was present in creek at the time of the survey. A railroad trestle (bridge) spans Piedmont Creek - the division between Reaches 2 and 3. This wood girder type railroad trestle is 35 feet long by 16 feet wide including approximately 5 feet of ballast rock on either side of the tracks. Two of the various stamps on the side of the railroad tracks in Reach 3 appear to relate to specific dates and places of manufacture "10025 R.E.O.H. COLORADO 1937" and "10025 RE-OH TENNESSE-USA-1938-11". A 12-inch diameter outfall pipe (material type unknown) encased in concrete and reinforced with Sackcrete is located immediately south of Yosemite Avenue on the west bank. Several sanitary sewer manholes are present along the east bank along the railroad right-of-way and observation metering wells are present on both sides of the creek.

The creek from Ames Avenue south to Montague Expressway in Reach 3 is nearly dry and creek banks less vegetated than Reach 3 north of Ames Avenue. Overall surface visibility along the creek ranged from 0 to 100% (e.g., exposed creek bed). Mr. Canzonieri walked the creek in this area inspecting the banks for the presence of cultural materials and, especially evidence of recorded prehistoric site CA-SCI-593 (P-43-000588). This segment includes a contemporary or at least, recently upgraded train trestle built of concrete and steel sheet located approximately 463 feet (143 meters) south of the Ames Avenue Bridge. A second trestle/bridge [wood girder type] similar to the one in Reach 2/3 at Piedmont Creek is located approximately 2,357 feet (718 meters) south of Ames Avenue Bridge or 423 feet (128 meters) north of Montague Expressway.

CA-SCI-593 (P-43-000588) was relocated and for the most part conforms to the boundaries of Stradford and Cartier (1986/form) [see Attachments, Form 3]. *Cerithidea* sp. and chert were observed approximately 60 feet (18 meters) north of the current site boundaries. Evidence of the site is most visible along the railroad tracks with erosion from the top and side east bank [see Figs. 23-26]. The site was not observed on the west bank, which has been rip-rapped.

Reported Cultural Resource C-167, described as a midden deposit which could be part of or a redeposit from CA-SCI-593 (P-43-000588) was not relocated during the survey. C-167 should have been present northwest of CA-SCI-593 in the creek and access road right-of-way and approximately 10 meters east of the Western Pacific tracks [spur line]. As noted previously, the approximately 20 x 20 meter deposit exhibited little difference in soil color between the surrounding ambient soil and light grey soil with fire cracked rock (FCR) and *Ostrea lurida* and *Cerithidea* shell (ACRS) 1987/S-4296; Dietz and Wilson 1987/card).

*Reach 4 - Montague Expressway to I-680*⁵³ [Figs. 6, 27-30]

Due to the stepped shape of *Reach 4* the field reconnaissance was subdivided approximately in half with Ms. Twigg surveying the northern portion and Mr. Canzonieri the southern portion. In addition to the creek banks, dry areas within the channel were surveyed. Field transects were oriented parallel to the creek and, if possible, spaced 2-5 meters apart. Surface visibility along the creek banks was poor, less than 20% due to dense vegetation, mostly grasses. An approximately 850 feet long x 25 feet wide gravel access road borders part of the west bank. The opposite east bank/north bank is bordered by a 15 foot wide gravel access road and a dirt easement approximately 40-45 wide. The sharp curves of the channelized creek are characterized by reinforcing with Sackcrete. In addition, portions of the creek appear "patched" with Sackcrete. Several corrugated steel outfall pipes are present in Reach 4. Two 24-inch steel outfall pipes, each reinforced with concrete and Sackcrete, are present on the east/north bank. The first is located approximately 627 feet (191 meters) south of Montague Expressway, the second approximately 1,581 feet (481 meters) east of Montague Expressway.

Reach 5 - I-680 to Morrill Avenue [Figs. 6, 31-34]

Mr. Canzonieri walked the south bank while Ms. Twigg walked the north bank. Field transects were oriented parallel to the creek and spaced 2-5 meters apart. Surface visibility along the creek banks was poor, less than 20% of the surface due to dense vegetation, mostly grasses. Very little water was present in creek at the time of the survey. Reach 5 from the east side of I-680 to Cropley Avenue is completely channelized with concrete. A gravel access road 15-20 feet wide and 12-15 foot wide dirt easements and gravel easements obscure the surface on both side of the creek. Cropley Avenue to Morrill Avenue of Reach 5 is partially channelized with Sackcrete. A 15-20 foot wide gravel access road borders the creek banks.

Reach 6 - Morrill Avenue to Secondary Sedimentation Basin [Figs. 6, 35-37]

Mr. Canzonieri walked the south bank while Ms. Twigg walked the north bank. The basin is located south of Webley Court/San Jose Water District "Cropley Pump Station" property at 3150 Cropley Avenue,⁵⁴ west of Creekside Drive. Field transects were oriented parallel to the creek and spaced 2-5 meters apart. Surface visibility along the creek banks was poor, less than 10% of the surface observable, mainly due to the lack of exposed sediments. Morrill Avenue to approximately 726 feet east is channelized creek (Sackcrete and/or sandbags). In addition, a 15-foot wide gravel access road borders the creek banks.

53. The entire northern, north/south portion of *Reach 4 - Montague Expressway to I-680* and a minor part of the east/west portion is located within the City of Milpitas. The remainder of Reach 4 and Reaches 5-9 and Alternatives 1-2 are located in the City of San Jose.

54. Owner: San Jose Water Works, 374 W. Santa Clara Street, San Jose 95196 and 95113-1502.

Note: Culverted Sierra Creek terminates at the south side of Berryessa Creek just west of Morrill Avenue (not shown on USGS, shown on Project figures: Upper Berryessa Creek Proposed Bypass Box Culvert Alternatives and Reaches 0-9 schematic map).

Reach 7 - Secondary Sedimentation Basin to Cropley Avenue [Figs. 6, 38-42]

Mr. Canzonieri completed the field inventory along the north side of the creek and where possible within the creek bed, while Ms. Twigg surveyed the south side of the creek. Survey transects were oriented east to west parallel to the creek and spaced 2-5 meters apart and included the surrounding fields (sedimentation basin/fields) parallel to the creek. Surface visibility along the creek banks was fair to good, approximately 40-75%. Water was present along portions of the creek at the time of the survey. A 15-foot wide gravel access road parallels the creek for approximately 575 feet on the north side. A gravel road approximately 15 feet wide along the south side of the creek follows the length of the creek to Piedmont Road. A 12-inch flap gate stamped "Olympic Foundry Co. Seattle" is present within a 24-inch corrugated steel pipe encased in concrete and Sackcrete is located approximately 181 feet east (55 meters) from the western boundary of Reach 7, 910 feet (277 meters) east Morrill Avenue. In addition three concrete foundations and a former 8-inch steel pipe were observed within Berryessa Creek Park. The larger square shaped approximately 30 x 30 inch foundation sits on top of a concrete pile (post). The two other foundations are approximately 36 inches high x 20 inches wide and thick, each with a concave groove/half crescent that could have held a pipe. The creek is channelized at Piedmont Road.

Reach 8 - Cropley Avenue to Old Piedmont Cul de Sac [Figs. 6, 43-45]

Mr. Canzonieri walked the east side of the creek while Ms. Twigg walked the creek bed and portions of the west bank. The latter is located approximately 296 feet (90 meters) east of Piedmont Avenue. Field transects were oriented north to south parallel to the creek and spaced 2-5 meters apart. Surface visibility along the creek banks was good, approximately 75%. Water was not present in the creek at the time of the survey. The west bank of Reach 8 is extremely steep with only small areas available along the bank due to residential property fences that extend almost to the creek bank. A 20-foot wide gravel access road parallels the east side of the creek. A concrete box approximately 4 feet x 4 feet x 7 feet high and 6 inches thick was observed eroding out of the east creek bank approximately 295 feet (90 meters) south of Old Piedmont Road.

Reach 9 - Old Piedmont to Upper Project Boundary [Figs. 6, 46-49]

Mr. Canzonieri walked the east side of the creek, while Ms. Twigg walked the creek bed and portions of the west bank. Field transects were oriented north to south parallel to the creek and spaced 2-5 meters apart. Surface visibility along the creek banks was fair, approximately 50% and included an area of dense riparian vegetation at and in the vicinity of the northern terminus. No water was present in the creek at

the time of the survey. As in the case of Reach 8, the west bank was extremely steep with scant area in which to walk at the top due to residential property fences that extend almost to the creek bank. A 20 feet wide gravel access road runs along the east side of the creek. A Eucalyptus grove parallels both sides of the creek

The bridge over Berryessa Creek at Old Piedmont Road (Bridge #37C-706) includes a date of 1926. The bridge is deteriorated with obvious damage to the columns. In addition a fire damaged Spanish style residence and a wood barn with a corrugated steel roof are adjacent (south) of the project alignment. 1960-1970s Ranch style homes are present along the west side of Old Piedmont Road and both sides of Croypley Avenue. The west side also includes a former Ranch Complex with a Spanish Revival style residence, a style popular in the 1920-1930s, within approximately 100 feet of the creek and a wood barn with a corrugated style roof approximately 270 feet of the south of the creek. The house was partially destroyed by fire in 2004-2005 according to a local resident (name withheld) who now currently runs cattle and stores firewood on the 50-acre parcel.

CA-SCI-156 – Supplementary Review

A supplementary field review of prehistoric site CA-SCI-156 (P-43-000168) was conducted on January 26, 2008 by Mr. Canzonieri. No evidence of the resource, supposedly located at the Croypley Avenue and [Old] Piedmont Road Junction, was observed. This site, described as a single flake and two shells with some possible fire-affected rock, may have been putative - the result of slope wash from a prehistoric site or possibly, non cultural (Bergthold 1974/form). Visibility along the west side of the road was excellent, nearly 90%. The exposed soil consists of dark brown silty clay with imported gravel.

7.2C Bypass Alternatives 1 and 2 [Figs. 6, 37, 50]

Proposed Bypass Box Culvert Alternatives 1 and 2 proceed along Croypley Avenue; Alternative 1 from Reach 5 is entirely along Croypley Avenue, Alternative 2 from Reach 6/7 is at about the southern end of Wembley Court northeasterly to Croypley Avenue. No evidence of midden, artifacts, etc., was observed in the vicinity of CA-SCI-157 (P-43-000169), an "open ? artifact [not described] as mapped by the CHRIS/NWIC adjacent to Bypass Alternatives 1 and 2.

Bypass Alternative 1

Mr. Canzonieri and Ms. Twigg conducted a windshield survey of Bypass Alternative 1 which extends from Reach 5 on the west, approximately 660 feet (202 meters) west of Morrill Avenue east along Croypley Avenue to Reach 8 (located approximately 296 feet (90 meters) east of Piedmont Road). Alternatives 1 and 2 pass through an urban landscape, comprised of ca. 1960s residential and community buildings. Both the Church of Latter Day Saints at 3110 Croypley Avenue (south side) and Morrill Middle School at 1970 Croypley Avenue (north side) opposite are bounded by Morrill Avenue on the west.

Bypass Alternative 2

As noted above in the Bypass Alternative 1 survey summary, Mr. Canzonieri and Ms. Twigg conducted a windshield survey along Cropley Avenue. The shorter Bypass Alternative 2 extends northeasterly from Reach 6 through of the San Jose Water District [*sic*] "Cropley Pump Station" property at 3150 Cropley Avenue⁵⁵ and then along Cropley Avenue east to Reach 8. The westernmost portion of Alternative 2 is situated just south of a residential area between Wembley Court on the west and Creekside Drive on the east adjacent to the parcel occupied by the Water District. Lacking an entry/access permit to the Water District property, survey observations were limited to the periphery. The Water District property in the vicinity of the proposed Alternative 2 appears to be occupied by landscaping (e.g., eucalyptus streets) west of the building(s), storage tanks, and monitoring equipment.

7.3 SURVEY SUMMARY

- Recorded site CA-SCI-593 (P-43-000588) was relocated within Reach 3 and appears to be larger than as recorded.
- No evidence of prehistoric archaeological site CA-SCI-156 (P-43-000168), site/isolate CA-SCI-157 (P-43-000169), and/or reported cultural resource C-167, or, other prehistoric and/or historic era archaeological resources was observed during the field inventory.
- No potentially significant architectural resources were observed during the survey. The bridges/culverts at major points within the alignment are listed below from north to south/Reaches 1 to 9. Most lack bridge/culvert numbers and are not of historic importance.

Los Coches between Reaches 1 and 2: two-lane bridge, approximately 40 feet wide

Piedmont Creek between Reaches 2 and 3: wood girder type railroad trestle (bridge), 16 feet wide, 35 feet long

Yosemite Avenue within Reach 3: four-lane bridge, approximately 80 feet wide.

Ames Avenue within Reach 3: two-lane bridge, approximately 50 feet wide

Montague Expressway between Reaches 3 and 4: about nine-lane box culvert, approximately 142 feet wide

55. The Cropley Pump Station, "established in 1963" consists of an approximately 4.9 acre triangular parcel with a single driveway "exiting Cropley Avenue" with some asphalt paving providing vehicle access to water storage tank and pump station equipment, the equipment of two wireless service providers (Metro PCS, Cingular), as well as four wells, grasses trees, shrubs, and fencing (EarthTouch 2007/S-33859).

I-680 Reach 5: culvert/bridge, approximately 200 feet wide

Cropley Avenue: four-lane culvert, approximately 90 feet wide

Morrill Avenue between Reaches 5-6: two-lane culvert, approximately 90 feet wide

Piedmont Road between Reaches 7-8: culvert, four/six lane intersection, approximately 408 feet wide

Berryessa Creek at Old Piedmont: two-lane bridge, approximately 20 feet wide

Old Piedmont Road: two-lane bridge, approximately 20 feet wide; date of 1926 on bridge (Note: Bridge has a former bridge number painted over 37C-706; this number does not correspond to the current bridge location in the current Caltrans local bridge inventory)

8.0 RESULTS

This *Historic Property Survey Report/Finding of Effect* (HPSR/FOE) report for the Berryessa Creek Project, Cities of San José and Milpitas, Santa Clara County was prepared to identify historic properties which may be listed, determined or potentially eligible for inclusion on the National Register of Historic Places in or immediately adjacent to an alignment proposed for various flood channel improvements along an approximate four mile alignment of Berryessa Creek. The alignment extends from Calaveras Boulevard on the north, to the Montague Expressway on the south and then trends east to Old Piedmont Road.

- Thirty-one (31) cultural resources compliance reports on file at the CHRIS/NWIC include part of the proposed project. These reports have been produced for various channel improvement projects for the Santa Clara Valley Water District (SCVWD) and U.S. Army Corps of Engineers (Sacramento District), the South Bay Water Recycling Program, Berryessa Creek Park, private development, city infrastructure, and a general plan. Four other known reports not on file at the CHRIS/NWIC include the project alignment or report on Native American burial(s) at CA-SCI-593 (P-43-000588).
- Four prehistoric cultural resources have been reported within or adjacent to the alignment: (1) CA-SCI-156 (P-43-000168); (2) CA-SCI-157 (P-43-000169); (3) CA-SCI-593 (P-43-000588); and, (4) C-167.
- No Native American villages, traditional or contemporary use areas or other features of significance have been identified in or adjacent to the proposed project.
- No known Hispanic Period dwellings or other structures have been reported in or adjacent to the proposed project alignments.
- No American Period archaeological sites have been recorded or reported in or adjacent to the proposed project.

- One previously recorded prehistoric archaeological site, CA-SCI-593 (P-43-000588), was relocated during the field survey. No evidence of other previously recorded resources or additional prehistoric or historic archaeological resources was observed.
- No buildings are located in or immediately adjacent to the proposed alignment. No local, state or federal architecturally significant structures, landmarks, or points of interest have been identified within or adjacent to the project either through archival research or the field inventory.
- No local, state or federal cultural resources/historic properties, landmarks, points of interest, including properties eligible for the National Register of Historic Places or the California Register of Historical Resources have been recorded, reported, identified or observed in or adjacent to the project.
- One historic property within and adjacent to the alignment, prehistoric site CA-SCI-593 (P-43-000588), appears eligible for inclusion on the National Register of Historic Places under criterion d as result of archival research and various field inventories.
- Archaeological and geoarchaeological data suggest a moderate to high potential for exposing subsurface archaeological materials within the flood control project alignment and adjacent areas in Reach 3 during the proposed construction near CA-SCI-593 (P-43-000588). This conclusion is based on the presence of a recorded prehistoric archaeological site that has yielded Native American burials and whose boundaries are not yet defined.

9.0 RECOMMENDATIONS

The reasonable and good faith effort to identify archaeological resources within the project alignment included a systematic field inventory. One previously recorded prehistoric archaeological site that appears eligible for the National Register of Historic Places under criterion d is present within and adjacent to the project alignment in Reach 3. The horizontal and vertical extent of CA-SCI-593 (P-43-000588) is not known. It is probable that the resource includes a larger portion of the Berryessa Creek channel and extends into the surrounding area east of the present channel. Presence/absence testing is recommended prior to construction to determine the horizontal and vertical extent of the site and provide an indication of site integrity. This action will supplement the current identification and evaluation effort and allow the Corps and its local partner to consider redesign and/or plan for future construction impacts.

10.0 FINDING OF EFFECT

The Corps has made a reasonable and good faith effort to identify historic properties listed, determined, or potentially eligible for inclusion on the National Register of Historic Places (36 CFR Part 800.4) within or immediately adjacent the project's APE pursuant to the NHPA of 1966 (as amended) (16 U.S.C., Section 470f) and its implementing regulations 36 CFR Part 800. The identification effort included a records

search, literature review, consultation with the Native American Heritage Commission, and a field inventory.

One archaeological resource within and adjacent to the project alignment appears eligible for the National Register of Historic Places under criterion d. The regulations implementing Section 106 of the NHPA define an effect as any action that would alter the characteristics of the property that may qualify the property for inclusion in the National Register of Historic Places, and, diminish the integrity of a property's location, setting, design, materials, workmanship, feeling or association (36 CFR Part 800.5(a)(1-2)). A finding of *Historic properties affected* (36 CFR Part 800.4(d)(2) is appropriate since the proposed undertaking may adversely affect a historic property listed, determined eligible or potentially eligible for the National Register of Historic Places.

11.0 MITIGATION MEASURES

The proposed project has not yet been designed. It is expected that a *Memorandum of Agreement* between the U.S. Army Corps of Engineers (Sacramento District) and their local partner the Santa Clara Valley Water District and the State Historic Preservation Officer will be developed and negotiated to resolve any adverse effects to the National Register of Historic Places eligible resource in accordance with 36 CFR Part 800.6.

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Materials in Holman (1975/S-4769).

Abbreviations

n.d.	no date	v.d.	various dates
N.P.	no publisher noted	n.p.	no place of publisher noted

The abbreviated phrase "CHRIS/NWIC, Sonoma State University, Rohnert Park" is used for material on file at the California Historical Resources Information System, Northwest Information Center, California State University Sonoma, Rohnert Park.

ATTACHMENTS

FIGURES

FIGURE 1	General Project Location
FIGURE 2	Project Location (USGS Milpitas, Calif. 1980 and Calaveras Reservoir, Calif. 1980)
FIGURE 3	Study Reaches
FIGURE 4	Project Location 1899 (USGS San Jose, Calif. 1899)
FIGURE 5	Project Alignments with Quaternary Deposits (Witter et al. 2006)
FIGURE 6	Survey Coverage Map with Photo Locations (USGS Milpitas, Calif. 1980 and Calaveras Reservoir, Calif. 1980)
FIGURE 7	Reach 1 north along east bank from Calaveras Road towards Los Coches Street
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FIGURE 19	Reach 3 south along the east bank
FIGURE 20	Reach 3 north along the west bank from Yosemite Drive
FIGURE 21	Reach 3 south along east bank towards modern railroad trestle
FIGURE 22	Reach 3 north towards Ames Avenue
FIGURE 23	Reach 3 north towards CA-SCI-593
FIGURE 24	Reach 3 east bank erosion and exposure of CA-SCI-593

ATTACHMENTS, con't

FIGURES, con't

FIGURE 25	Reach 3 – CA-SCI-539 <i>Cerithidea californica</i> in east bank
FIGURE 26	Reach 3 north towards railroad trestle and CA-SCI-593
FIGURE 27	Reach 4 north towards Montague Expressway
FIGURE 28	Reach 4 west along the north bank
FIGURE 29	Reach 4 along the creek parallel to Interstate 680
FIGURE 30	Reach 4 north from the terminus of Reach 4 adjacent to Interstate 680
FIGURE 31	Reach 5 north from Cropley Avenue towards Interstate 680
FIGURE 32	Reach 5 Sackcrete along creek bank and creek floor
FIGURE 33	Reach 5 west along the east end of the reach
FIGURE 34	Reach 5 east towards Morrill Avenue
FIGURE 35	Reach 6 east from Morrill Avenue, south bank and culvert
FIGURE 36	Reach 6 east from Morrill Avenue east of culvert
FIGURE 37	Reach 6 Alternative Route
FIGURE 38	Reach 7 east along creek and banks
FIGURE 39	Reach 7 east along creek within Berryessa Creek Park
FIGURE 40	Reach 7 concrete foundation, south bank within Berryessa Creek Park
FIGURE 41	Reach 7 south along the west bank
FIGURE 42	Reach 7 north towards Piedmont Road
FIGURE 43	Reach 8 south along the east side of the creek from Old Piedmont Road
FIGURE 44	Reach 8 south along creek; concrete vault west bank
FIGURE 45	Reach 8 south along creek
FIGURE 46	Reach 9 – view north of former County Bridge 37C-706
FIGURE 47	Reach 9 Eucalyptus Grove
FIGURE 48	Reach 9 north along creek
FIGURE 49	Reach 9 south along creek at terminus for reach
FIGURE 50	Alternative Route west along Cropley Road from Piedmont Road

ATTACHMENTS, con't

CORRESPONDENCE

LETTER	REQUEST TO NATIVE AMERICAN HERITAGE COMMISSION
LETTER	NATIVE AMERICAN HERITAGE COMMISSION RESPONSE

CHRIS/NWIC SEARCH RESULTS

SEARCH	File No. 08-0825 dated February 25, 2009
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SITE FORMS AND CARDS

FORM 1	CA-SCI-156 (P-43-000168)
FORM 2	CA-SCI-157 (P-43-000169)
FORM 3	CA-SCI-593 (P-43-000588) [Includes recent aerial photo with probable burial location; S-4296, S-8115, Cartier and Felippo 1987; Cartier and Filippo 1988; S-15929, S-15947]
FORM 4	P-43-001136, Berryessa Creek Reburial location
CARD 1	C-167, midden deposit; in/adjacent, may be part of CA-SCI-593

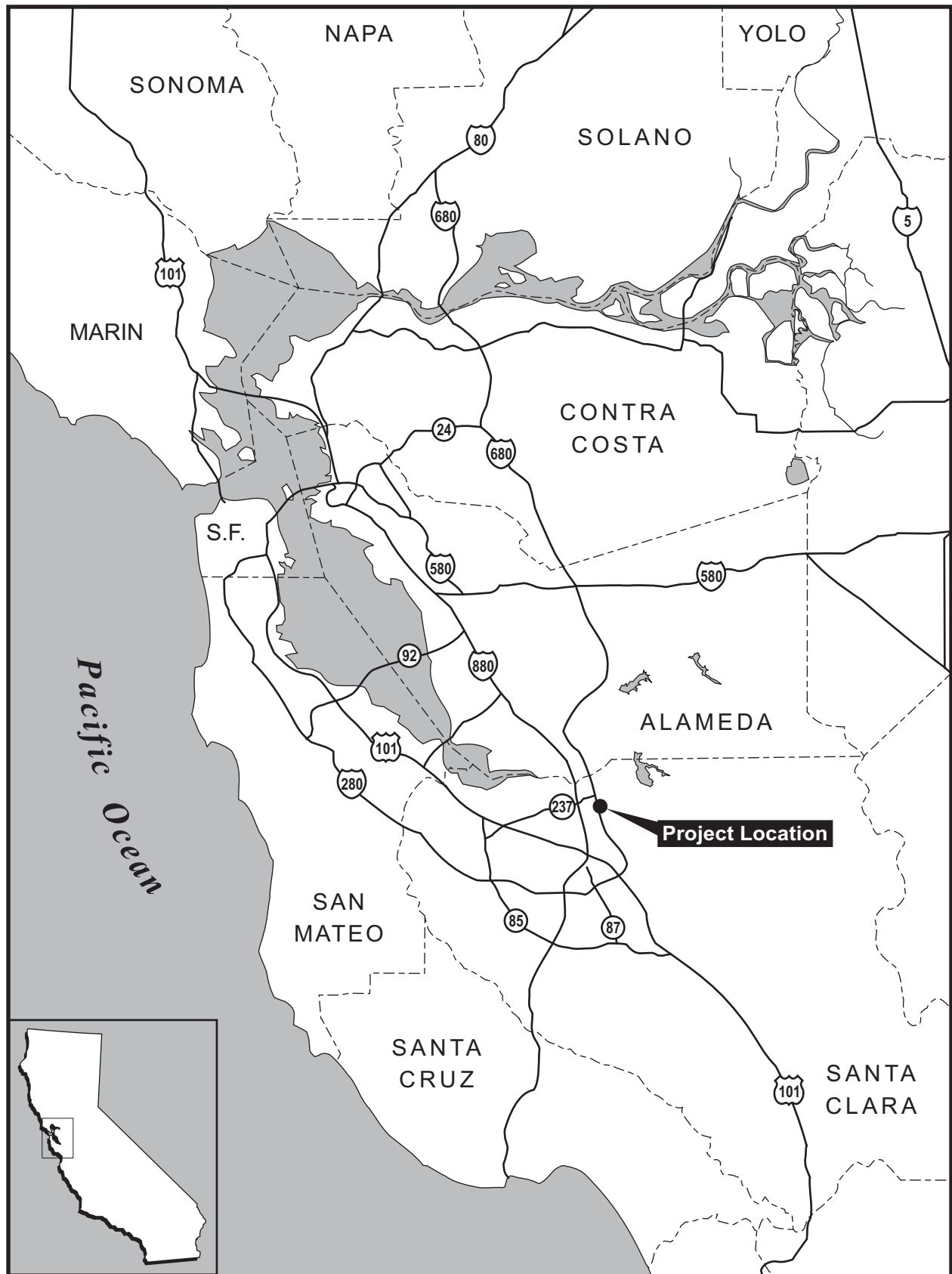


Figure 1: General Project Location

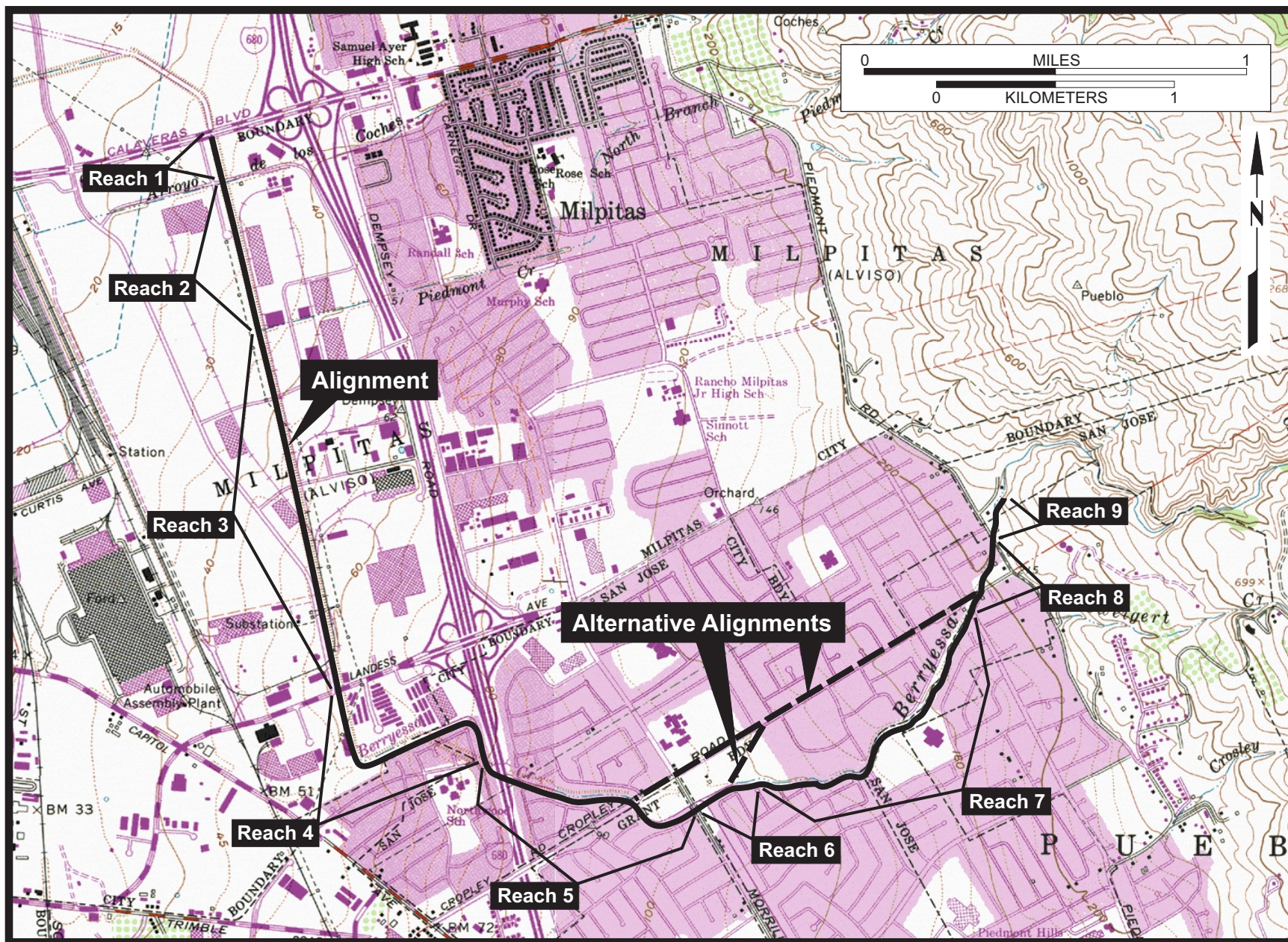
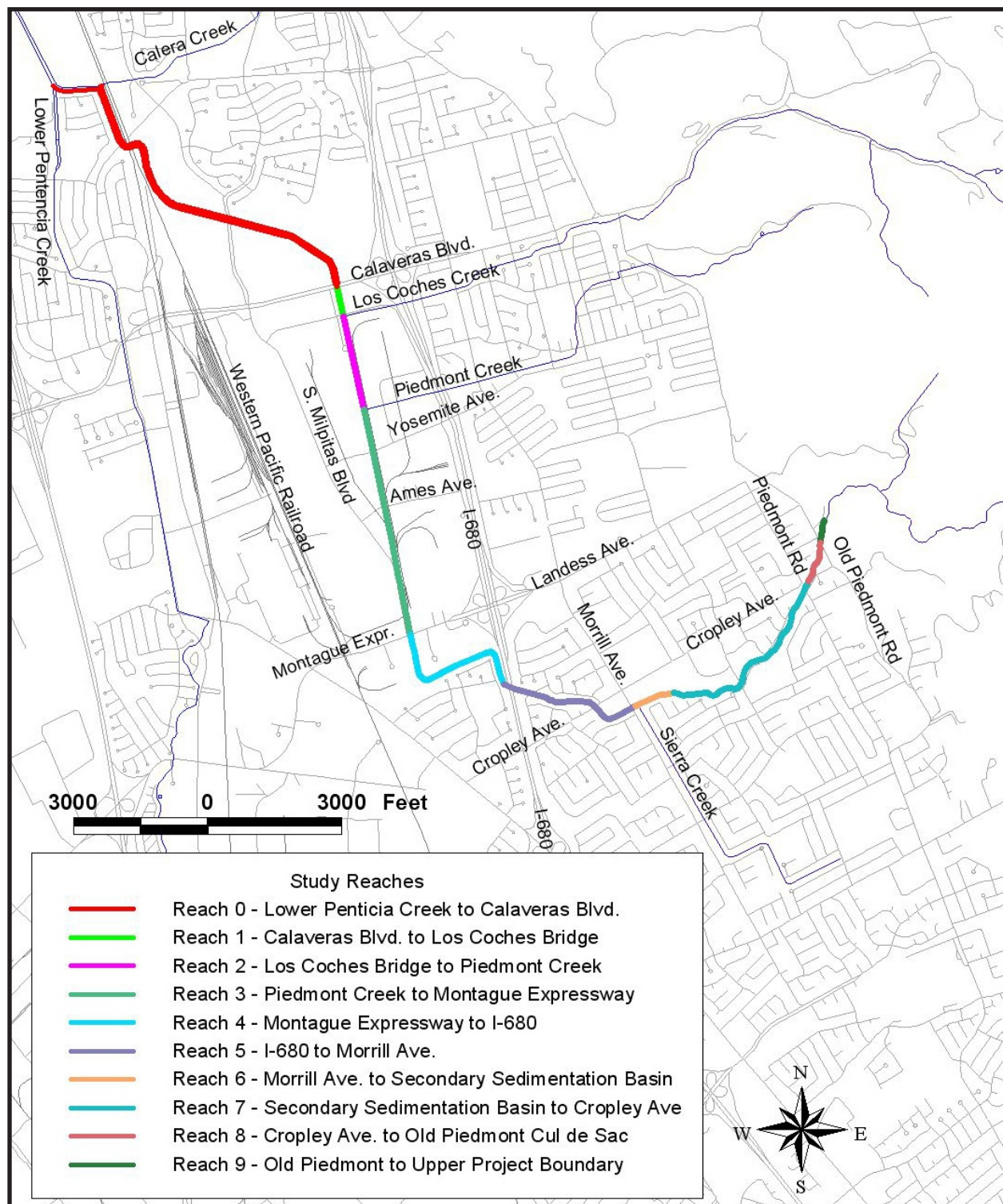


Figure 2: Project Location (USGS Milpitas, Calif. 1980 and Calaveras Reservoir, Calif. 1980)



*** The Berryessa GRR does not include Reach 0***

Figure 3: Study Reaches

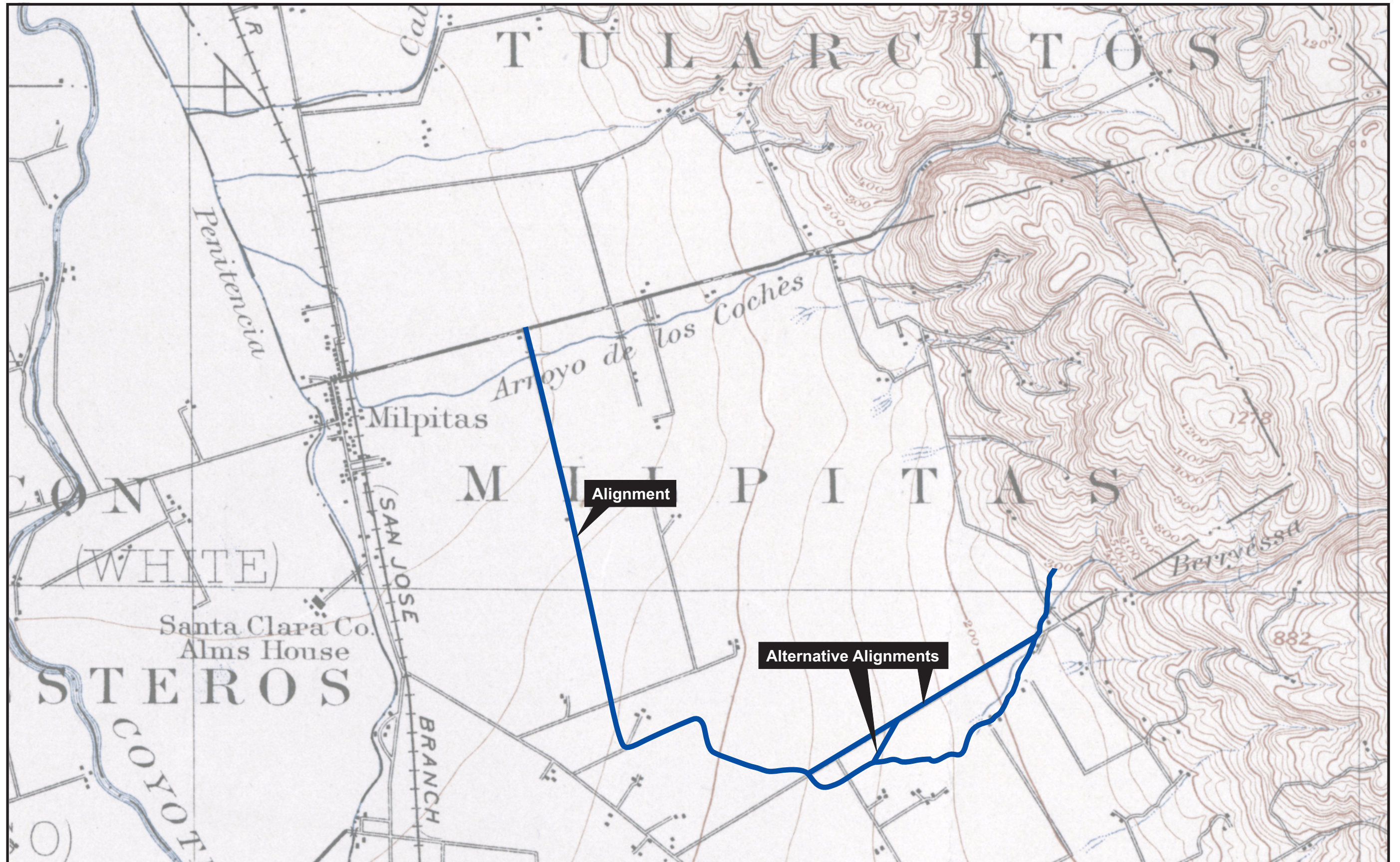


Figure 4: Project Location in 1899 (USGS San Jose, Calif. 1899)

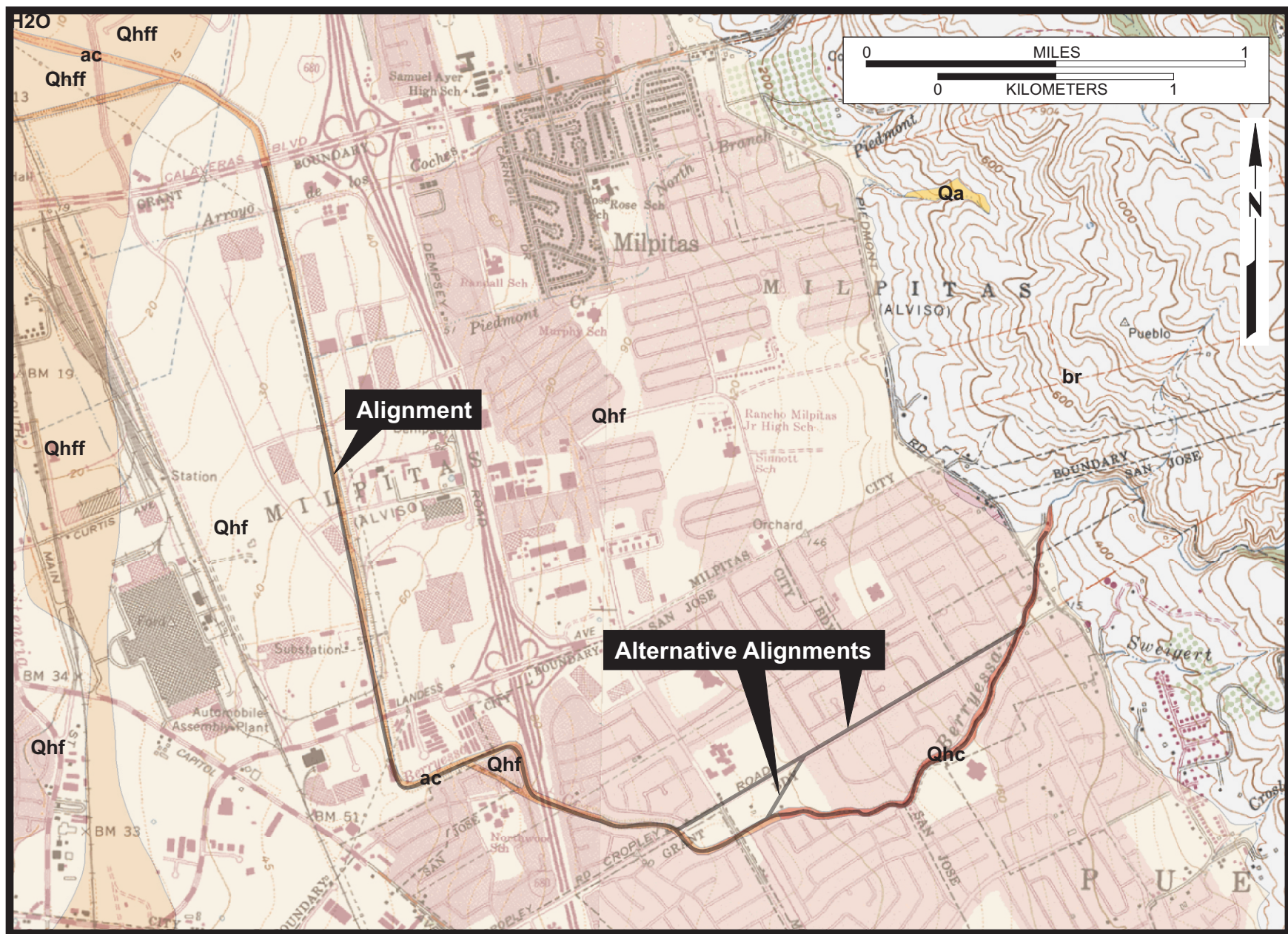


Figure 5: Project Alignments with Quaternary Deposits (Witter et al. 2006)

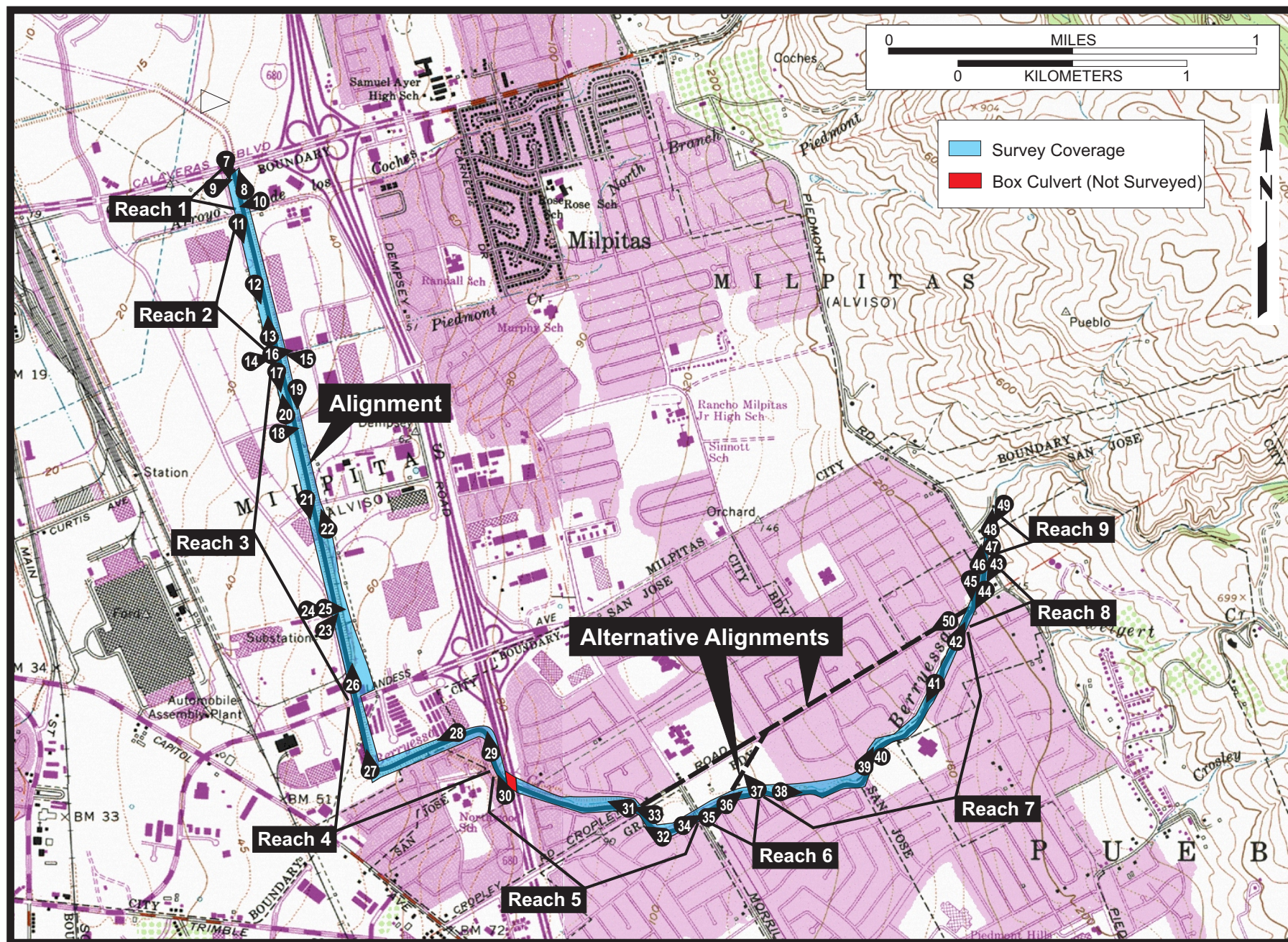


Figure 6: Survey Coverage Map with Photo View Locations (USGS Milpitas, Calif. 1980 and Calaveras Reservoir, Calif. 1980)



Figure 7: Reach 1 south along west bank from Calaveras Road towards Los Coches Street

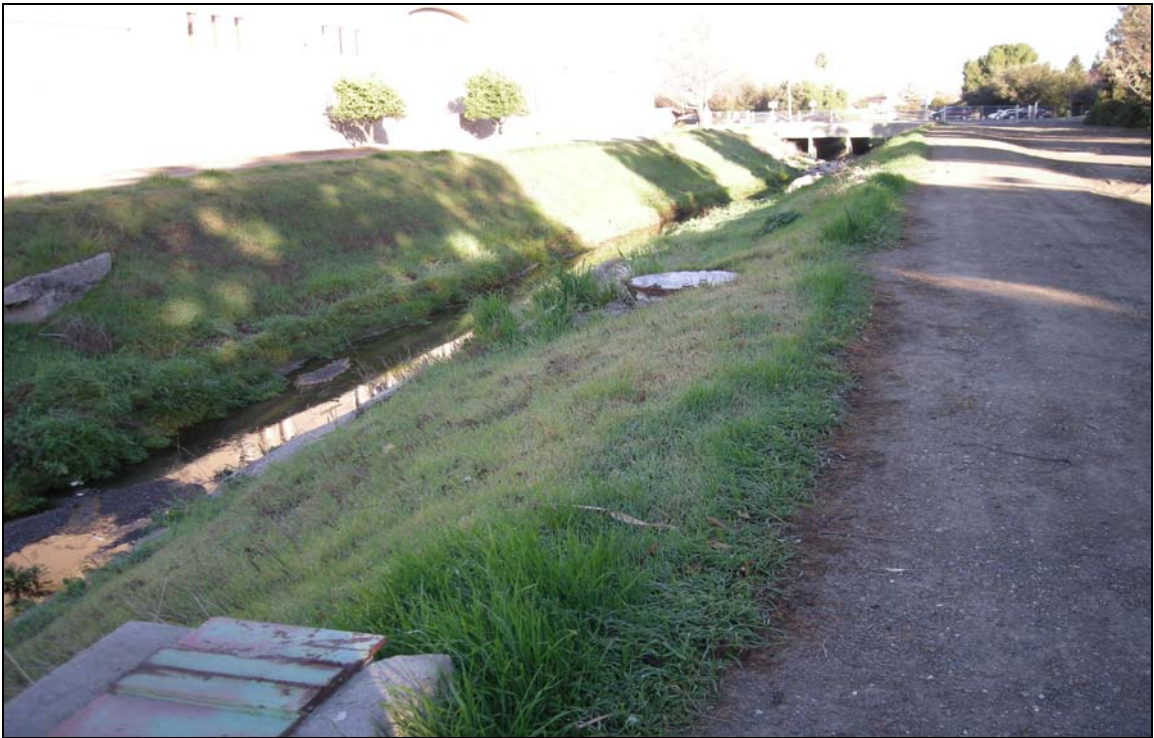


Figure 8: Reach 1 north along east bank from Los Coches Street towards Calaveras Road



Figure 9: Reach 1 RCP outfall with rip-rap on east bank



Figure 10: Reach 1 View of the west bank just north of Los Coches Street



Figure 11: Reach 2 south along the west bank



Figure 12: Reach 2 south along the west bank



Figure 13: Reach 2 north along the west bank



Figure 14: Reaches 2 and 3 east towards Piedmont Creek and railroad trestle



Figure 15: Reaches 2 and 3 view west from east side of railroad trestle over Piedmont Creek



Figure 16: Reaches 2 and 3 close view of railroad trestle over Piedmont Creek



Figure 17: Reach 3 south along the west bank towards Yosemite Avenue



Figure 18: Reach 3 erosion along the east bank just south of Yosemite Avenue bridge



Figure 19: Reach 3 south along the east bank



Figure 20: Reach 3 north along the west bank from Yosemite Drive



Figure 21: Reach 3 south along west bank towards modern railroad trestle



Figure 22: Reach 3 north towards Ames Avenue



Figure 23: Reach 3 north towards CA-SCI-593



Figure 24: Reach 3 east bank erosion and exposure of CA-SCI-593



Figure 25: Reach 3 – CA-SCI-593 *Cerithidea californica* in east bank



Figure 26: Reach 3 north towards railroad trestle and CA-SCI-593



Figure 27: Reach 4 north towards Montague Expressway



Figure 28: Reach 4 west along the north bank



Figure 29: Reach 4 north along the creek parallel to Interstate 680



Figure 30: Reach 4 north from the terminus of Reach 4 adjacent to Interstate 680



Figure 31: Reach 5 north from Cropley Avenue towards Interstate 680



Figure 32: Reach 5 Sackcrete along creek bank and creek floor south of Cropley Avenue



Figure 33: Reach 5 west towards Cropley Avenue



Figure 34: Reach 5 east towards Morrill Avenue



Figure 35: Reach 6 east from Morrill Avenue, south bank and culvert



Figure 36: Reach 6 east from Morrill Avenue east of culvert



Figure 37: Reach 6 northwest towards Alternative Route



Figure 38: Reach 7 east along creek and banks



Figure 39: Reach 7 east along creek within Berryessa Creek Park



Figure 40: Reach 7 concrete foundation, south bank within Berryessa Creek Park



Figure 41: Reach 7 south along the west bank



Figure 42: Reach 7 north towards Piedmont Road



Figure 43: Reach 8 south along the east side of the creek from Old Piedmont Road



Figure 44: Reach 8 south along creek; concrete vault on east bank



Figure 45: Reach 8 south along creek



Figure 46: Reach 9 – view north of former County Bridge 37C-706



Figure 47: Reach 9 Eucalyptus Grove



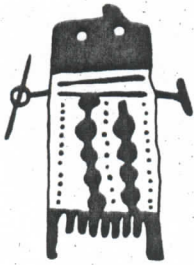
Figure 48: Reach 9 north along creek



Figure 49: Reach 9 south along creek at terminus for reach



Figure 50: Alternative Route west along Cropley Road from Piedmont Road



FILE

January 13, 2009

BASIN
RESEARCH
ASSOCIATES

1933 DAVIS STREET
SUITE 210
SAN LEANDRO, CA 94577
VOICE (510) 430-8441
FAX (510) 430-8443

Mr. Larry Meyers
Executive Secretary
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

RE: Request for Review of Sacred Lands Inventory
Berryessa Creek Project, Cities of Milpitas and San Jose, Santa Clara County

Dear Mr. Meyers,

Please let this letter stand as our request for the Native American Heritage Commission (NAHC) to conduct a review of the NAHC *Sacred Lands Inventory* to determine if any listed properties are present within or adjacent to the above proposed project area (see enclosed USGS map).

The proposed project consists of various proposed flood channel improvements along an approximately four mile alignment of Berryessa Creek from Calaveras Boulevard on the north in the City of Milpitas, trending west to Old Piedmont Road in northeast City of San Jose.

Information from the NAHC *Sacred Lands Inventory* will be used in a Historic Property Survey Report/Finding of Effect (HPSR/FOE) to be submitted to the U.S. Army Corps of Engineers, Sacramento District.

If I can provide any further information, please don't hesitate to contact me (510 430-8441 or Basinres@Gmail.com). Thank you for your timely review of our request.

Sincerely yours,

Colin I. Busby
Principal

CIB/m
Enclosures - Location Map

STATE OF CALIFORNIAArnold Schwarzenegger, Governor**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-5390
Web Site www.nahc.ca.gov



January 27, 2009

Colln I. Busby, Principal
BASIN RESEARCH ASSOCIATES
1933 Davis Street, Suite 210
San Leandro, CA 94577

Sent by Fax: 510-430-8443
Number of Pages: 3

Re: Proposed Berryessa Creek project, Santa Clara County.

Dear Mr. Busby:

A record search of the sacred land file has failed to indicate the presence of Native American cultural resources in the immediate project area. The absence of specific site information in the sacred lands file does not indicate the absence of cultural resources in any project area. Other sources of cultural resources should also be contacted for information regarding known and recorded sites.

Enclosed is a list of Native Americans individuals/organizations who may have knowledge of cultural resources in the project area. The Commission makes no recommendation or preference of a single individual, or group over another. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated, if they cannot supply information, they might recommend others with specific knowledge. By contacting all those listed, your organization will be better able to respond to claims of failure to consult with the appropriate tribe or group. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from any of these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information. If you have any questions or need additional information, please contact me at (916) 653-4038.

Sincerely,


Debbie Pilas-Treadway
Environmental Specialist III



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814

REPLY TO
ATTENTION OF

Environmental Resources Branch

SEP 13 2013

Ms. Rosemary Cambra, Chairwoman
Muwekma Ohlone Tribe of the San Francisco Bay Area
P.O. Box 360791
Milpitas, California 95036

Dear Chairwoman Cambra:

We are writing to inform you of the proposed Berryessa Creek Flood Protection Project (Project) in the city of Milpitas in Santa Clara County, California. The U.S Army Corps of Engineers, Sacramento District, would like to invite you to participate in consultation on a memorandum of agreement (MOA) as a concurring party. We previously wrote you at an incorrect address on two occasions in 2011, and again this last March (enclosures 1 & 2). Very recently Mr. Alan Leventhal provided us with your current address. Our project archeologist, Mr. Richard Perry attempted to reach you by telephone on August 2, 2013. Enclosed are copies of the draft MOA and Historic Property Management Plan (HPMP) for the Project for your review (Enclosures 3 & 4). Both documents have been reviewed and approved by the State Historic Preservation Officer.

The purpose of the proposed project is to: (1) reduce flood damages to populated areas; (2) reduce sedimentation and maintenance requirements; (3) provide access and recreation to the public, as feasible; (4) restore environmental values whenever possible through the study reach, as consistent with the flood reduction purpose of the project; and 5) avoid and minimize effects to riparian and aquatic habitat. A copy of the complete project description is enclosed (Enclosure 4). After the Sacramento District finalizes the feasibility study, we will transfer the project to the San Francisco District for project implementation.

The area of potential effects (APE) extends approximately 4.5 miles along Berryessa Creek, beginning downstream where Berryessa Creek meets Calaveras Boulevard (Highway 237) and terminates directory south of Montague Expressway adjacent to Interstate 680. The APE falls within the cities of Milpitas and San Jose in Santa Clara County, California and is mapped in Township 6 South/Range 1 East, on the Milpitas, California (1980) and Calaveras Reservoir, California (1980) 7.5 minute U.S.G.S. topographic quadrangles. A map of the APE is included as Appendix A to the draft MOA.

A prehistoric and historic sites records search was completed by the California Historical Resources Information System, Northwest Information Center at California State University, Sonoma, on February 25, 2009. The record search indicated the presence of three prehistoric sites and one reported cultural resource located within or adjacent to the proposed project area. One recorded Native American reburial location is mapped within 0.25 miles of the APE. No Native American villages, traditional or contemporary use areas, or other features of significance have been identified in or adjacent to the proposed project area.

A systematic archaeological field survey of the APE was conducted on January 13 and 14, 2009 by Mr. Christopher Canzonieri (M.A., Physical Anthropologist and

Archaeologist) and Ms. Johanna E. Twigg (M.S., Archaeologist). The survey included both sides of the creek bank and, when possible, the creek channel. One previously recorded prehistoric archaeological site, CA-SCL-593, which is on the creek channel had been relocated during the field survey. No evidence of other previously recorded resources or additional prehistoric or historic archaeological resources was observed. Archeology site CA-SCL-593 is the focus of the MOA and HPMP.

In January 2009 heavy rain caused the remains of two or three individuals to become exposed in the creek bank at the location of CA-SCL-593. The Santa Clara County Coroner was notified by our local project sponsor, the Santa Clara Valley Water District (SCVWD). After determining that the human remains were of ancestral Native American origin, the Coroner notified the Native American Heritage Commission as required by California State law. According to the SCVWD you were named the "Most Likely Descendant" for this project.

We apologize for contacting you with this participation invitation this late in the process. However, to date none of the previously invited Native American Groups have responded. Five non-federally recognized Native American groups were notified of the Project in June 2011. In addition to you we have contacted the Ohlone Indian Tribe, Inc., Ms. Ramona Garibay, the Amah-Mutsun Tribal Band, and the Indian Canyon Mutsun Band of Costanoan with invitations to participate in the MOA as concurring parties. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will participate in consultation after all other comments have been submitted to the Corps.

We request that you please review the enclosed MOA and HPMP and provide comments as necessary. Again we apologize for the lateness of our contacting you. We are aware of your interest in this area and would greatly appreciate your participation in the process. We would welcome a reply within 30 days from your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7750, or email at: charles.l.austin@usace.army.mil.

Sincerely,


for E. Scott Clark
Acting Chief, Planning Division

Enclosures



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814**

**REPLY TO
ATTENTION OF**

Environmental Resources Branch

**Mr. Dennis Cheong
Project Manager
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118**

SEP 13 2013

Dear Mr. Cheong:

We are writing you to invite the Santa Clara Valley Water District (SCVWD) to participate in consultation as a concurring party to a memorandum of agreement (MOA) that we are preparing for the Berryessa Creek Flood Protection Project (Enclosure 1). The U.S. Army Corps of Engineers, Sacramento District, has submitted the draft MOA and draft Historic Property Management Plan (HPMP) to the State Historic Preservation Officer for review. They have been reviewed and approved. A map of the area of potential effects (APE) is in Appendix A of the MOA.

We developed the MOA to resolve adverse effects that may occur to archeology site CA-SLC-593, which is known to contain burials. Initially the site was located when the creek bank eroded out in 1986, revealing the burials. They were excavated by local San Jose archeologist, Dr. Robert Cartier, and San Francisco District Archeologist, Mr. Richard Stradford. During the heavy rains in the winter of 2010, more human remains were found eroding out of the creek bank. The SCVWD contacted the Santa Clara County Coroner, who identified the remains as prehistoric. After the coroner notified the Native American Heritage Commission, presumably the Most Likely Descendant was notified.

Five non-federally recognized Native American groups were notified of the Project in June 2011. In addition to the Indian Canyon Mutsun Band of Costanoan we have contacted the Muwekma Ohlone Indian Tribe, the Amah-Mutsun Tribal Band, the Ohlone Indian Tribe, Inc., and Ms. Ramona Garibay with invitations to participate in the MOA as concurring parties. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will participate in consultation after all other comments have been submitted to the Corps.

Please review the enclosed draft MOA and HPMP and provide comments as necessary. We would appreciate a response within 30 days of your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7550, or email at charles.l.austin@usace.army.mil.

Sincerely,


 E. Scott Clark
Acting Chief, Planning Division

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814

REPLY TO
ATTENTION OF

Environmental Resources Branch

SEP 13 2013

Mr. Andrew Galvan
The Ohlone Indian Tribe, Inc.
Fremont, California 94539

Dear Mr. Galvan:

We are writing with regard to the Berryessa Creek Flood Protection Project (Project) in Santa Clara County, California. Enclosed are copies of the draft MOA and Historic Property Management Plan (HPMP) or the Project for your review (Enclosures 1 & 2). Both documents have been reviewed and approved by the State Historic Preservation Officer. The draft MOA has been reviewed and approved by the State Historic Preservation Officer. The U.S. Army Corps of Engineers, Sacramento District (Corps) wrote previously on June 28, 2011 to inform you of the proposed project and request any information regarding the presence of Traditional Cultural Properties or sacred sites that may be in the area of potential effects (APE) for the proposed project (Enclosure 3). We wrote again on March 22, 2013 with an invitation to participate in consultation and provided copy of the draft MOA for your review (Enclosure 4). Corps project archeologist, Mr. Richard Perry, followed up on the letters by contacting you by telephone on August 29, 2013. After the Sacramento District completes the feasibility study, we will transfer the project to the San Francisco District.

Four non-federally recognized Native American groups were notified of the Project in June 2011. In addition to the Ohlone Indian Tribe, Inc., we have contacted the Muwekma Ohlone Indian Tribe, the Amah-Mutsun Tribal Band, and the Indian Canyon Mutsun Band of Costanoan with invitations to participate in the MOA as concurring parties. Based on your recommendation we also invited Ms. Ramona Garibay to participate in consultation. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will participate in consultation after all other comments have been submitted to the Corps.

In January 2009 heavy rain caused the remains of two or three individuals to become exposed in the creek bank at the location of CA-SCL-593. The Santa Clara County Coroner was notified by our local project sponsor, the Santa Clara Valley Water District (SCVWD). After determining that the human remains were of ancestral Native American origin, the Coroner notified the Native American Heritage Commission as required by California State law. According to the SCVWD, Ms. Rosemary Cambra, was named the "Most Likely Descendant" for this project.

We request that you please review the enclosed draft MOA and HPMP and provide comments as necessary. We would appreciate a reply within 30 days from your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7750, or email at: charles.l.austin@usace.army.mil.

Sincerely,


for E. Scott Clark
Acting Chief, Planning Division

Enclosures



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814**

**REPLY TO
ATTENTION OF**

Environmental Resources Branch

SEP 13 2013

**Ms. Ramona Garibay
Representative
Trina Marine Ruan Family
30940 Watkins Street
Union City, California 94587**

Dear Ms. Garibay:

We are writing you at the recommendation of Mr. Andrew Galvan to inform you of the proposed Berryessa Creek Flood Protection Project (Project) in the city of Milpitas in Santa Clara County, California. The U.S. Army Corps of Engineers, Sacramento District (Corps) would like to invite you to participate in consultation on a memorandum of agreement (MOA) as a concurring party. Our project archeologist, Mr. Richard Perry attempted to reach you telephone on August 29, 2013 and left a voice message for you. Enclosed are copies of the draft MOA and Historic Property Management Plan (HPMP) or the Project for your review (Enclosures 1 & 2). Both documents have been reviewed and approved by the State Historic Preservation Officer.

The purpose of the proposed project is to: (1) reduce flood damages to populated areas; (2) reduce sedimentation and maintenance requirements; (3) provide access and recreation to the public, as feasible; (4) restore environmental values whenever possible through the study reach, as consistent with the flood reduction purpose of the project; and 5) avoid and minimize effects to riparian and aquatic habitat. A copy of the complete project description is enclosed (Enclosure 2). After the Sacramento District finalizes the feasibility study, we will transfer the project to the San Francisco District for project implementation.

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A systematic archaeological field survey of the APE was conducted on January 13 and 14, 2009 by Mr. Christopher Canzonieri (M.A., Physical Anthropologist and Archaeologist) and



Ms. Johanna E. Twigg (M.S., Archaeologist). The survey included both sides of the creek bank and, when possible, the creek channel. One previously recorded prehistoric archaeological site, CA-SCL-593, which is on the creek channel had been relocated during the field survey. No evidence of other previously recorded resources or additional prehistoric or historic archaeological resources was observed. Archeology site CA-SCL-593 is the focus of the MOA.

In January 2009 heavy rain caused the remains of two or three individuals to become exposed in the creek bank at the location of CA-SCL-593. The Santa Clara County Coroner was notified by our local project sponsor, the Santa Clara Valley Water District (SCVWD). After determining that the human remains were of ancestral Native American origin, the Coroner notified the Native American Heritage Commission as required by California State law. According to the SCVWD Ms. Rosemary Cambra you were named the "Most Likely Descendant" for this project.

We apologize for contacting you with this participation invitation this late in the process. However, to date none of the previously invited Native American Groups have responded. Five non-federally recognized Native American groups were notified of the Project in June 2011. In addition to you, we have contacted the Ohlone Indian Tribe, Inc., the Muwekma Ohlone Indian Tribe, the Amah-Mutsun Tribal Band, and the Indian Canyon Mutsun Band of Costanoan with invitations to participate in the MOA as concurring parties. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will participate in consultation after all other comments have been submitted to the Corps.

We request that you please review the enclosed MOA and HPMP and provide comments as necessary. Again we apologize for the lateness of our contacting you. We are aware of your interest in this area and would greatly appreciate your participation in the process. We would welcome a reply within 30 days from your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7750, or email at: charles.l.austin@usace.army.mil.

Sincerely,


 E. Scott Clark
Acting Chief, Planning Division

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814

**REPLY TO
ATTENTION OF**

Environmental Resources Branch

SEP 13 2013

**Ms. Ann Marie Sayers, Chairperson
Indian Canyon Mutsun Band of Indians
P.O. Box 28
Hollister, CA 95024**

Dear Ms. Sayers:

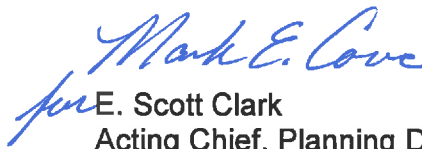
We are sending you a copy of the draft memorandum of agreement (MOA) for your review that we prepared for the Berryessa Creek Flood Protection Project (Project) in Santa Clara County, California (Enclosure 1). The draft MOA has been reviewed and approved by The State Historic Preservation Officer. The U.S. Army Corps of Engineers, Sacramento District (Corps) wrote you previously on June 28, 2011 (enclosure 2) to inform you of the proposed project and request any information regarding the presence of Traditional Cultural Properties or sacred sites that may be in the area of potential effects (APE) for the proposed project. We wrote you again on March 22, 2013 with an invitation to participate in consultation and provided you a copy of the draft MOA for you to review (enclosure 3). Also enclosed is a copy of the draft Historic Property Management Plan (HPMP) or the Project for your review (Enclosure 4). The Draft MOA and HPMP have been reviewed and approved by the State Historic Preservation Officer. After the Sacramento District completes the feasibility study, we will transfer the project to the San Francisco District.

Five non-federally recognized Native American groups were notified of the Project in June 2011. In addition to the Indian Canyon Mutsun Band of Costanoan we have, and will continue to contact the Muwekma Ohlone Indian Tribe, the Amah-Mutsun Tribal Band, , Ohlone Indian Tribe, Inc., and Ms. Ramona Garibay and invite them all to participate in the MOA as concurring parties. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will in consultation after all other comments have been submitted to the Corps.

In January 2009 heavy rain caused the remains of two or three individuals to become exposed in the creek bank at the location of CA-SCL-593. The Santa Clara County Coroner was notified by our local project sponsor, the Santa Clara Valley Water District (SCVWD). After determining that the human remains were of ancestral Native American origin, the Coroner notified the Native American Heritage Commission as required by California State law. According to the SCVWD, Ms. Rosemary Cambra, was named the "Most Likely Descendant" for this project.

We request that you please review the enclosed draft MOA and HPMP and provide comments as necessary. We would appreciate a reply within 30 days from your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7750, or email at: charles.l.austin@usace.army.mil.

Sincerely,

A handwritten signature in blue ink that reads "Mark E. Cove". The signature is written in a cursive style.

for E. Scott Clark
Acting Chief, Planning Division

Enclosures



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
1325 J STREET
SACRAMENTO, CALIFORNIA 95814**

**REPLY TO
ATTENTION OF**

Environmental Resources Branch

**Ms. Irenne Zwierlein
Chairperson
Amah Mutsun Tribal Band
789 Cañada Road
Woodside, California 94062**

SEP 18 2013

Dear Chairperson Zwierlein:

We are sending you a copy of the draft memorandum of agreement (MOA) for your review that we prepared for the Berryessa Creek Flood Protection Project (Project) in Santa Clara County, California (Enclosure 1). The draft MOA has been reviewed and approved by The State Historic Preservation Officer. The U.S. Army Corps of Engineers, Sacramento District (Corps) wrote you previously on June 28, 2011 (enclosure 2) to inform you of the proposed project and request any information regarding the presence of Traditional Cultural Properties or sacred sites that may be in the area of potential effects (APE) for the proposed project. We wrote you again on March 22, 2013 with an invitation to participate in consultation and provided you a copy of the draft MOA for you to review (enclosure 3). Also enclosed is a copy of the draft Historic Property Management Plan (HPMP) or the Project for your review (Enclosure 4). The Draft MOA and HPMP have been reviewed and approved by the State Historic Preservation Officer. After the Sacramento District completes the feasibility study, we will transfer the project to the San Francisco District.

Five non-federally recognized Native American groups were notified of the Project in June 2011. In addition to the Amah-Mutsun Tribal Band, we have contacted the Indian Canyon Mutsun Band of Costanoan, the Muwekma Ohlone Indian Tribe, the Ohlone Indian Tribe, Inc., and Ms. Ramona Garibay with invitations to participate in the MOA as concurring parties. The Advisory Council on Historic Preservation has been notified of the MOA and will decide to what extent they will participate in consultation after all other comments have been submitted to the Corps.

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We request that you please review the enclosed draft MOA and HPMP and provide comments as necessary. We would appreciate a reply within 30 days from your receipt of this letter. If you have any further questions concerning this project, please contact Mr. Richard M. Perry, Archeologist, at (916) 557-5218 or e-mail at: richard.m.perry@usace.army.mil. If you have any general project questions please contact Mr. Charles Austin, Project Manager, at (916) 557-7750, or email at: charles.l.austin@usace.army.mil.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark E. Cowan".

Mark E. Scott Clark
Acting Chief, Planning Division

Enclosures